

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**August 15, 2005**

**IN RE:**

**FORMAL NOTICE OF VIOLATIONS, ATHENS UTILITY  
BOARD INCIDENT, JULY 16, 2004, REPORT OF  
NATURAL GAS SAFETY INSPECTION #04-365**

**DOCKET NO.  
05-00017**

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**ORDER APPROVING PROPOSED CIVIL PENALTY  
AND ACCEPTING RESPONSE OFFERING  
LONG TERM CORRECTIVE ACTIONS**

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This matter came before Chairman Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on January 31, 2005, for consideration of the Formal Notice of Violation ("FNOV") issued by the TRA's Gas Pipeline Safety Division and the response by the Athens Utility Board ("AUB") proposing a plan of long-term corrective action and accepting the full penalty amount

**BACKGROUND**

On July 16, 2004, a natural gas pipeline operated by AUB was ruptured after being struck by a boring machine operated by a contractor during the installation of a water line. The rupture caused the natural gas to be released into the environment, and the boring equipment ignited the gas causing burns to the arms and torso of one contractor employee and damage to contractor equipment. The operator of the boring equipment was airlifted to Erlanger Hospital Burn Unit where he stayed until July 19, 2004.

The TRA's Gas Pipeline Safety Division conducted an investigation of the incident pursuant to Tenn. Code. Ann. § 65-28-106 (2004) and 49 U.S.C. § 60105(a). The investigation and findings are detailed in the Report of Natural Gas Safety Inspection #04-365 (the "Report"), which is filed in

this Docket as an attachment to the FNOV. The Report stated that AUB failed to properly mark all of its facilities in the area where the boring took place as required by 49 C.F.R. § 192.614(c)(5).<sup>1</sup>

On January 18, 2005, the Gas Pipeline Safety Division issued the FNOV to AUB for failing to comply with 49 C.F.R. § 192.614(c)(5), which requires operators of natural gas pipelines, upon receiving notice of a proposed excavation or demolition, to provide for temporary markings of buried pipelines in the area of the prospective excavation or demolition. The FNOV proposed a civil penalty against AUB in the amount of \$15,000 and required AUB to respond to the FNOV in one of three ways. AUB could 1) submit in writing corrective measures that have achieved compliance; 2) submit a plan of action outlining the corrective measures that will be taken and when compliance is anticipated or; 3) request an informal conference with the Gas Pipeline Safety Division Chief.

AUB responded to the FNOV in writing on January 19, 2005, outlining immediate and long-term corrective actions aimed at preventing recurrence of a similar event. AUB's proposed plan for long-term corrective actions required that AUB:

- 1) Re-stress the importance of daily work execution with all AUB personnel.
- 2) Focus on the fact that dereliction of duty is unacceptable in any AUB operation, but especially those that have the potential to result in harm to human health and the environment. Stress that appropriate actions will be taken in the event of dereliction of duty.
- 3) Re-assess the locator position and associated duties.
- 4) Evaluate hiring a full-time locator charged specifically with the job and allowing the gas apprentices to assist or fill-in during vacation.
- 5) Provide documentation of the procedure for locating and re-train all individuals that are involved in the process.
- 6) Provide job specific requirements above those required by procedure to ensure that work is being conducted in an effective manner to protect the public safety.

AUB's response also stated that it agreed with the findings and conclusions set forth in the FNOV and that it agreed to pay the full penalty of \$15,000 upon approval of the agreement by the Authority.

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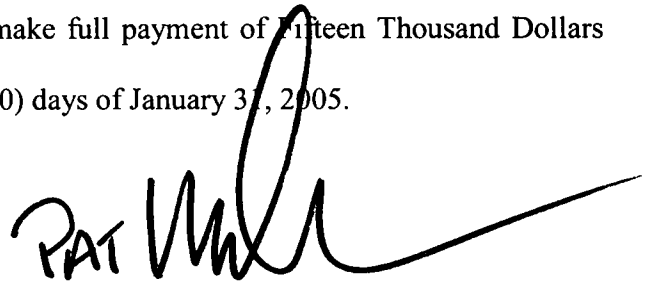
<sup>1</sup> Pursuant to TRA Rule 1220-4-5-48 the TRA adopted the federal safety standards and regulations (including 49 C.F.R. § 192.614(c)(5)) for the transportation of natural and other gas by pipeline. Additionally, Tenn. Code Ann. § 65-28-106 gives the TRA the authority to enforce federal safety standards as permitted in the Natural Gas Pipeline Safety Act, 49 U.S.C. § 60101 *et seq.* in the State of Tennessee.

## **JANUARY 31, 2005 AUTHORITY CONFERENCE**


At a regularly scheduled Authority Conference held on January 31, 2005 the panel reviewed and discussed the FNOV and proposed plan of action. After careful review the panel voted unanimously to approve the Gas Pipeline Safety Division's FNOV and proposal for civil penalties and to accept AUB's response offering a long-term corrective action plan and payment of the full penalty amount. Additionally, the panel voted unanimously to order AUB to submit the full payment of \$15,000 to the TRA within thirty (30) days of January 31, 2005.

### **IT IS THEREFORE ORDERED THAT:**

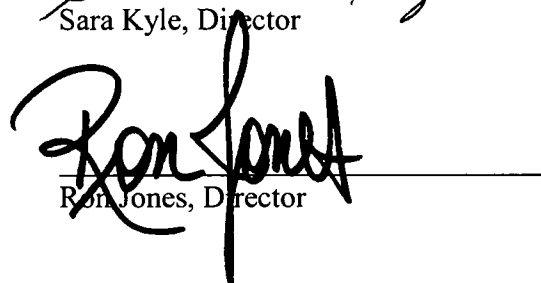
1. The Formal Notice of Violation, attached hereto as Exhibit A, is approved and is incorporated into this Order as if fully rewritten herein.
2. The Response to Notice of Violation, attached hereto as Exhibit B, is accepted and is incorporated into this Order as if fully rewritten herein.
3. Athens Utility Board is ordered to make full payment of Fifteen Thousand Dollars (\$15,000) in civil penalty to the TRA within thirty (30) days of January 31, 2005.



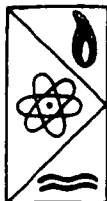
Pat Miller, Chairman



Sara Kyle, Director



Ron Jones, Director



# Athens Utilities Board

100 Englewood Road • Athens, Tennessee 37371-0689 • (423) 745-4501  
T.R.A. DOCKET ROOM

RECEIVED

2005 JAN 19 PM 3:10

January 17, 2005

Mr Glynn Blanton, Chief  
Gas Pipeline Safety Division  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

DOCKET NO.

05-00017

Subject: Athens Utilities Board (AUB) – Tennessee Regulatory Authority (TRA)  
Inspection #04-365 – Response to Notice of Violations

Dear Mr. Blanton.

Based upon the cover letter included with the subject report, AUB was given three options for response to the incident report. Please consider the attached document as AUB exercising response Option 1 – “submit a written statement to the Pipeline Safety Chief indicating that corrective measures have achieved compliance.”

AUB has evaluated the report and concurs with the findings of the TRA. The incident of July 16, 2004 had tragic repercussions for all parties involved, but especially the young man who was severely burned in the incident

After a very thorough investigation of the event, we have taken a number of appropriate actions based upon the findings of our internal investigation. These actions were designed to evaluate the effectiveness of our current locator staff and processes, to improve those functions where applicable, and to definitively reassert the importance of personal responsibility in executing assigned job duties per established procedures.

If you have any questions or comments regarding the attachments or enclosures, or if I can be of any further assistance to you, please feel free to call me at (423) 745-4501.

Yours truly,

ATHENS UTILITIES BOARD

Eric T. Newberry, Jr.  
General Manager

Page Two  
Mr. Glynn Blanton, Chief  
January 17, 2005

**Attachment – Athens Utilities Board Response to Notice of Violations**

**Cc: Mr. Charles J “Buddy” Liner, AUB Board Chairman  
Attorney David Harrod, AUB Legal Representative  
Mr Bob Ingram, AUB Superintendent of Gas  
Ms. Sherree Reed, AUB Gas Division**

**Athens Utilities Board  
Response to Notice of Violations  
Natural Gas Safety Inspection #04-365**

**Official Written Statement Response to Inspection #04-365**

**Introduction:**

The event of Friday July 16<sup>th</sup>, 2004 was a tragic event for all individual's involved, particularly for the young man who received the burns to his arms and torso. AUB management began evaluating the incident immediately upon arrival to determine exactly what had transpired and if possible how to prevent such an incident from occurring in the future. The immediate site investigation left members of our management team with some troubling issues that required further investigation in order to evaluate any and all extenuating circumstances. This included the evaluation of all records that might have been associated with any aspect of the event. By Monday July 19<sup>th</sup>, 2004 all associated records (timesheets, one-call tickets, one-call tracking sheets, dispatch logs, etc) had been pulled and evaluated. Based upon these records, observations at the incident site, and discussions with involved personnel, there was a failure of AUB personnel to perform their job duties as assigned regarding the Tennessee One-Call locate system.

**Immediate Corrective Actions:**

At approximately 3.50 P.M after completing a briefing with the eye-witness and senior gas division personnel there was an immediate issue raised with not only the potential accuracy, but the actual performance of our one-call locates. The following actions were taken immediately.

1. Pulled all one-call tickets
2. Determined all one-call tickets currently "active"
3. Identified all tickets marked N.I. (Not Involved) by locators
4. Relocated all tickets – priority given to all tickets marked N.I (Not involved) by involved employee
5. Re-stressed the importance of proper work execution with all employees not just locators

Upon review of all the associated documents (Monday July 17<sup>th</sup> (evening), it was obvious that there was a failure by specific AUB personnel to properly execute their job in locating the intersection per the one-call instructions. In fact the second one-call ticket was marked as N.I. (Not Involved) by the locator. After looking for potential extenuating circumstances from the dispatch logs and interviewing the subject employee there was

**REPORT OF NATURAL GAS SAFETY INSPECTION #04-365**

**OPERATOR:** Athens Utility Board -- Athens, Tennessee

**PERSON (S) CONTACTED:** Bob Ingram, Gas Superintendent

**INSPECTION DATE:** 7/16/04

**TRA ENGINEER:** Eric Cherry

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Any questions pertaining to this report may be directed to the above address or by telephoning (615) 741-2844, extension 133. (Call toll-free within Tennessee at 1-800-342-8359, extension 133 )

1 **PURPOSE OF INSPECTION:** To perform an incident investigation on the Athens Utility Board gas system for compliance with the Minimum Federal Safety Standards (MFSS) §192

2 **VIOLATION (S) OF THE MINIMUM FEDERAL SAFETY STANDARDS:**

A Violation(s) Cited this Inspection

**§192.614(c)(5) Damage prevention program.**

Provide temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins

B Violation(s) Previously Cited **None.**

C Violation(s) Closed this Inspection: **None.**

3 **OBSERVATIONS, COMMENTS, AND RECOMMENDATIONS:** See attached "Pipeline Accident Report"

4 **ACTION REQUIRED BY OPERATOR:** See attached "Pipeline Accident Report"

**PIPELINE ACCIDENT REPORT**  
**ATHENS UTILITY BOARD**  
**RICEVILLE, TENNESSEE**  
**JULY 16, 2004**

**INTRODUCTION**

This pipeline incident was investigated by the Tennessee Regulatory Authority under the authority of Section 60105(C)(1)(b) of 49 United States Code (U S C ) Chapter 601, State Statute 65-28-106 and Tennessee Regulatory Authority Rule 1220-4-5- 47(5)&(6) by which the Tennessee Regulatory Authority is responsible for, among other things, reporting to the Secretary of Transportation in Annual Certification, all accidents or incidents reported during the preceding twelve months by each such person involving personal injury requiring hospitalization, fatality, or property damage exceeding an amount established by the Secretary, together with a summary of the investigation as to the cause and circumstances surrounding such accidents or incidents

**SYNOPSIS**

On July 16, 2004 at approximately, 12:00 P M (E S T ) an incident occurred near the intersection of County Road 100 and County Road 62 in Riceville, Tennessee The incident resulted in the injury and hospitalization of Nicholas Strickland and damage to a four (4) inch polyethylene natural gas main. Nicholas Strickland worked for C.P Asbury Construction Company The natural gas main is operated by the Athens Utility Board (AUB)

According to Hank Shadden of C P Asbury Construction Company, a boring machine ruptured the polyethylene gas main which had approximately 20 pounds per square inch gauge (psig) of pressure. The escaping gas was then ignited by the boring machine engine Nicholas Strickland was in the boring machine trench operating the boring machine when the gas migrated back through the boring casing and ignited Nicholas Strickland's arms and torso were burned prior to his escape from the rear portion of the boring machine trench Nicholas Strickland's injuries resulted in seven days of hospitalization at Erlanger Hospital in Chattanooga, Tennessee.

C P Asbury Construction Company was a subcontractor for Green Brothers Construction, the general contractor that had the contract with the Riceville Utility Board to install a boring for a water line under County Road 100 Pursuant to Tennessee Annotated Code §65-31-108, the Athens Utility Board is responsible for locating the natural gas mains in the Riceville area

The incident occurred at a location approximately 65 feet north of the intersection of County Road 100 and County Road 62, on the west side of County Road 100 The



excavation for the boring pit began at the incident site and extended into a cattle pasture on the west side of County Road 100 (see exhibit five) The completed boring was intended to extend from west to east under County Road 100.

Hank Shadden was the lead construction person on the road boring project. He stated that "immediately following the incident he called 911, who in turn notified fire and emergency medical services" An AUB employee, Sean Jaquish, was mowing a nearby church lawn at the time of the incident He saw the resulting fire and called AUB

Records indicate that AUB was notified at 12 20 PM E S T.(see exhibit one) Records indicate that the County Fire Coordinator with the Hazmat Team, Scott Thompson, was notified of the incident at approximately 12 46 PM (see exhibit two) The responding AUB personnel, David Leamon, Jeff Derrick, and Mark Sliger arrived on-site and began to isolate the damaged section of pipeline at approximately 12 45 PM According to the timeline of events, supplied by Mr Bob Ingram, AUB Gas Superintendent, AUB personnel began isolating the damaged section of pipeline at approximately 12 45 PM with a valve on the southern end of the damaged pipe and by digging a bell hole on the northern section of pipe, such that it may be physically squeezed off (see exhibit one)

At 12 51 PM, Mr Scott Thompson, County Fire Coordinator, arrived at the incident site and began to direct and reroute traffic (see exhibit two) The Riceville Fire Department was notified of the incident at approximately 12 58 PM, per the Riceville Fire Department records (see exhibit four). At approximately 1 18 PM E.S T the Tennessee Regulatory Authority was notified by AUB of the incident (see exhibit three). The Riceville Fire Department arrived at the incident site at 1:22 PM AUB finalized a plan of action and began repair work on the damaged pipeline at 1 30 PM Mr Eric Cherry, Gas Safety Engineer with the Tennessee Regulatory Authority, arrived on-site at approximately 2.15 PM, at which time the fire had been extinguished

Nicholas Strickland was transported via Life Force, Erlanger Hospital's air service helicopter, to Erlanger Hospital in Chattanooga, Tennessee at 12 51 PM (see exhibit two) Mrs. Shadden, Nicholas's mother, stated that Nicholas Strickland was treated for second and third degree burns to his arms, hands, torso and head and was kept at the hospital for seven days Mrs Shadden went on to relay that Nicholas Strickland is still considered partially disabled due to the fragility of his burn scars. The total estimated property damage of equipment, pipeline and lost natural gas did not exceed \$10,000

### **INVESTIGATION**

Mr Eric Cherry arrived at the incident scene at 2 15 PM E S T on the afternoon of July 16, 2004 to conduct the investigation The investigation consisted of a tour of the site, where photographs were taken, and interviews with representatives of Green Brothers Construction, Riceville Utility Board and Athens Utility Board were conducted. Upon arrival, the incident fire had been extinguished, the burn victim had been transported for treatment and repair work on the damaged portion of polyethylene pipeline had begun.

The incident occurred when C P Asbury Boring Company bored into the four (4) inch polyethylene natural gas main located on the west side of County Road 100. The incident occurred approximately 65 feet north of the intersection of County Road 100 and County Road 62, on the west side of County Road 100 in Riceville, Tennessee (see exhibit five). Hank Shadden of C P Asbury stated that "the boring machine excavation pit had been excavated on the west side of County Road 100 and the boring machine and tracks had been installed in the excavated pit by 11 30 AM E S T on July 16, 2004. The boring under County Road 100 began with an auger bit, casing and boring machine at 11.50 AM. At approximately 12 00 PM, the auger bit ruptured the four (4) inch polyethylene natural gas main." The pressure on the natural gas main was approximately 20 psig. The escaping natural gas traveled back through the casing and ignited when it came into contact with the boring machine engine.

Nicholas Strickland of C P Asbury Boring Company was in the excavated boring machine pit at the time of the incident. When the gas ignited, Nicholas Strickland was operating the boring machine. Nicholas Strickland sustained burns to his hand, arms, torso and head prior to escaping from the rear portion of the excavated boring machine pit. Nicholas Strickland was the only person injured at the incident scene.

In the State of Tennessee, contractors are required to contact the Tennessee One-Call system at least three working days prior to excavating to allow marking of underground facilities (see exhibit six). Utility operators who are notified by Tennessee One-Call must indicate the approximate location of their facilities. It is the responsibility of the excavator to observe a "safety zone" with respect to the facility markings. Under Tennessee Law, an excavator could be subject to a penalty not to exceed \$2500.00 and/or 48 hours in jail per violation if excavation and damage took place without prior notification. A locate ticket remains active for a maximum of 15 working days. The excavator must update an area by calling Tennessee One-Call no later than 3 working days before the expiration date to renew the locate ticket. At this point, a new locate ticket is generated.

C P Asbury Construction contacted Tennessee One-Call on July 8, 2004 for a facility locate at the intersection of County Road 100 and County Road 62. The locate ticket requested a locate "from above the intersection, mark north/northwest for approximately 200 feet" (see exhibit seven). This initial locate ticket (# 041900438) was called in by Hank Shadden with C P Asbury Construction. Additional underground utility locate tickets were called in by Green Brothers Construction on July 13, 2004 for this same location (see exhibit seven). These additional facility locate tickets (#041951932 and #041951933) were called in by Debbie Green of Green Brothers Construction.

Upon investigation by this writer on the day of the incident, yellow paint markings and flags indicating natural gas facilities were present at the intersection of County Road 100 and County Road 62 (see exhibit eight). These yellow paint markings and flags started on the west side of the intersection. These markings continued to a gas distribution valve approximately 40 feet north/northwest of the intersection. There, the markings indicated the gas distribution facilities cross west to east across County Road 100. No gas pipeline

facility markings, yellow paint or flags, were located any farther than approximately 40 feet north/northwest of the intersection on County Road 100 and County Road 62.

The boring machine ruptured the gas main while boring in the area approximately 65 feet north/northwest of the intersection. Hank Shadden stated "they were unaware of any natural gas facilities any farther north of the intersection than those extending 40 feet north of the intersection"

The damaged section of polyethylene gas main was isolated by the AUB's personnel who located a gas main valve approximately 30 feet south of the incident site and closed the valve to prevent the flow of gas from the south feed. The gas was isolated on the north side of the damaged pipeline section by excavating a bell hole to expose the pipe, where AUB personnel could use a squeeze tool to compress the polyethylene pipe and prevent the flow of gas through the section of pipeline. These measures effectively cut off any gas sources to the damaged section of the pipeline, and the fire was extinguished at approximately 2:15 PM. According to the AUB timeline of events, AUB personnel finalized a plan of action and repair work on the pipeline commenced at approximately 1:30 PM. AUB personnel completed the pipeline repair work at approximately 3:45 PM (see exhibit one). Work on the pipeline extended approximately 85 feet north of the intersection on the west side of County Road 100. In the course of collecting data, this investigator asked Mr. Bob Ingram, AUB Gas Superintendent, if he knew of or was he aware of any gas pipeline facility markings any farther than approximately 40 feet north of the intersection on County Road 100. Mr. Bob Ingram stated "he had not seen any yellow locate markings as far north on County Road 100 as the incident scene, and he had looked."

An incident scene map was prepared (see exhibit five). The natural gas facilities ran continually from south to north of the intersection on the west side of County Road 100. The natural gas facility markings (yellow paint and flags) extended approximately 40 feet north of the intersection, where they crossed County Road 100. The natural gas facility markings also cross County Road 62 to the south side of the intersection along the west side of the intersection. The telecommunication facility markings (orange paint) extended in excess of 200 feet to the north of the intersection down the east side of County Road 100. The natural gas facilities did not have any locate markings corresponding to the facility locations any further than 40 feet north of the intersection.

Pursuant to 49CFR §192.617, under the direction of Bob Ingram, AUB prepared an investigation of the failure and accident report for the purpose of determining the causes of failure and minimizing the possibility of recurrence. In summary, the conclusion of this report stated, "AUB failed to completely mark the area as requested" (see exhibit eleven).

## CONCLUSIONS

The AUB four (4) inch natural gas main located on the west side of County Road 100, north of the intersection of County Roads 100 and 62, in Riceville, Tennessee, was ruptured by a boring machine owned by C.P. Asbury Construction. According to Richard Green of Green Brothers Construction, three locate tickets had been called in to Tennessee One-Call for an underground facility locate for the area 200 feet north of the intersection of County Roads 100 and 62, north/northwest of County Road 100 (see exhibit seven)

AUB is required to locate their underground facilities in conjunction with the Tennessee Underground Utility Damage Prevention Law and AUB's Damage Prevention Program (see exhibits six and nine, respectively). AUB employee, Brad Hester, was responsible for the location of these natural gas facilities, according to AUB documentation (see exhibit ten)

AUB personnel responded to the incident in a timely manner, considering the time of notification and the geographical location of the incident and AUB personnel. AUB personnel isolated the damaged pipeline in a timely manner and extinguished the resulting fire. Repairs to the pipeline proceeded in an orderly fashion with no loss of service to customers. Recommended safety practices were employed with the repair of the pipeline including control of static electricity, monitoring gas content in the excavated pipeline repair pit, and the use of Nomex fire retardant suits by AUB personnel performing the repair work.

**49 CFR §192.614 (c)(5)** states that each operator must, "Provide for temporary marking of buried pipelines in the area of excavation activity before, as far as possible, the activity begins" as part of the operator's written Damage Prevention Program. Item two of the AUB failure investigation report conclusion (see exhibit eleven), states, "(2) AUB's failure to completely mark the area as requested resulted in the contractor believing the area was clear of natural gas piping." This investigator did not find any gas facility locate markings for the pipeline facilities approximately 20 feet south of the incident scene going northward along the west side of County Road 100 (see exhibit five). This investigator concludes that AUB failed to mark their underground facilities as required. Therefore, a violation of **49 CFR §192.614 (c)(5)** has been cited at this time.

### Index of Exhibits

Exhibit One	Athens Utility Board Timeline Correspondence.
Exhibit Two	911 Incident Transcript.
Exhibit Three	Incident Report filed with Tennessee Regulatory Authority.
Exhibit Four	Riceville Fire Department Incident Record.
Exhibit Five	Incident Scene Map.
Exhibit Six	Tennessee Underground Utility Damage Prevention Law.
Exhibit Seven	Tennessee One-Call Locate Tickets.
Exhibit Eight	Incident Scene Pictures.
Exhibit Nine	Athens Utility Board Damage Prevention Program
Exhibit Ten	Athens Utility Board Correspondence of Brad Hester as Athens Utility Board Person Responsible for the Incident's Facility Locate.
Exhibit Eleven	Athens Utility Board Failure Report.

## EXHIBITS

EXHIBIT 1  
(following three pages)

From "Bob Ingram" <bingram@aub.org>  
To <Eric.cherry@state.tn.us>  
Date 8/2/2004 1:35:03 PM  
Subject questions answered

Eric,

Here are my responses to your questions. I hope this is satisfactory.  
Please call me after you look this over.

Thanks,

Bob Ingram

Superintendent

Division of Natural Gas

Athens Utilities Board

423-745-4501

423-829-5204



- 1 What was the operating pressure on the 4 inch line which was damaged? 20 psig
- 2 When was the 4 inch line installed? January 2001
- 3 Please supply odorization reports for this area
  - A January 2004 50 - .72
  - B February 2004 .31 - .28
  - C March 2004 .41 - .30
  - D April 2004 .29 - 41
  - E May 2004 .39 - 35
  - F June 2004 26 - 23
  - G July 2004 74 - .61
  - H Copies of actual test report sheets shipped under separate cover
- 4 Is this a single or a loop feed on the 4 inch line which was damaged? This portion of the line is normally considered a single feed as it is supplied from a 20 psig system servicing the city of Riceville. The line is tied into a looping area which is a 50 psig system servicing the outer north western portions of the county. There is a blocking valve (normally closed) between the two systems. The 4 inch line was tested to 100 psig during installation which gives us a MAOP of 66 psig on the line. When the valve was closed feeding the line from Riceville we cracked the blocking valve to maintain customers on the still active portion of the line.
- 5 Why was the 4 inch line squeezed off on the northern end of County Road 100? The location of the next northern valve would have caused a longer bleed time thusly slowing down repair and purging efforts. Utilizing the squeeze off method we were able to insure no customers would be lost
- 6 Were there any police or fire reports for the incident? Please supply a copy No police report made – attempting to locate a fire report
- 7 Please provide a timeline of events including who was contacted when?

All times approximate.

  - A. 12:15 – line damaged
  - B 12:15 – damaging contractor calls 911 requiring assistance
  - C 12.20 – AUB dispatch notified
  - D 12.30 – Bob Ingram notified
  - E. 12:30 – Fire, Sheriff and EMT arrive
  - F 12:40 – Injured party flown to burn unit of Erlanger Hospital in Chattanooga
  - G. 12:45 – AUB qualified personnel arrive and close feeding valves southern and northern

- H. 12:50 – Bob Ingram arrives
- I. 12:55 – Situation assessed, contact made with all responding parties
- J. 13:15 – TRA notified
- K. 13:20 – National Emergency Response center notified
- L. 13:30 – Plan of action finalized and repair work commences
- M. 14:15 – TRA representative arrives
- N. 15:45 – Repair work completed
- O. 16:00 – Earth work completed
- P. 16:15 – Line purged and placed back into service

8 From the notification of the incident, when was the gas turned off? Valves southern and northern of the damage were closed on the arrival of AUB qualified personnel

9 Who did the line locating for this call ticket? Athens Utilities Board

EXHIBIT 2  
(following nine pages)

## MCMINN COUNTY E-911 COMMUNICATIONS CENTER

Fax Transmittal Form

1107 S CONGRESS  
PKWY  
ATHENS, TN 37303**To: ERIC CHERRY****From: Susan Jackson**Name:  
Organization Name/Dept:  
CC  
Phone number:  
Fax number:

MCECD

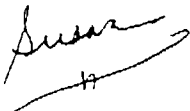
Phone: 423-744-8041  
Fax: 423-744-8043Phone: 423-744-8041  
Fax: 423-744-8043

Urgent

For Review ☒

Please Comment

Please Reply

Date sent: 8-4-04  
Time sent: 0809  
Number of pages including cover page: 9**ERIC,****I HOPE THIS WILL BE HELPFUL. IF YOU NEED ANY-  
THING FURTHER PLEASE DO NOT HESITATE TO CALL.****THANKS,**

**MEDICAL ASSIST CALL JULY 16,2004**

12:03:00 911 CALL RECEIVED BY DISPATCH ADVISING THAT THEY HAD  
A BOY BURNED BY A BORING MACHINE  
12:04:00 EMS UNITS AND FIRE DEPARTMENT CONTACTED TO BE  
ENROUTE  
12:09:00 EMS UNITS ENROUTE TO SCENE  
12:16:00 RICEVILLE FIRE DEPARTMENT ENROUTE  
12:16:00 ATHENS UTILITY BOARD CALLS DISPATCH AND ADVISED  
THEY HAD A UNIT ON SCENE AND NEEDED THE SHERIFF'S  
DEPARTMENT TO BE ENROUTE (THEY DID NOT ADVISE THAT  
IT WAS A NATURAL GAS LINE AT THIS TIME)  
12:17:00 SHERIFF'S DEPARTMENT ADVISED OF TRAFFIC  
12:22:00 FIRST AMBULANCE ON SCENE  
12:23:00 RICEVILLE FIRE DEPARTMENT ON SCENE  
12:24 12 RICEVILLE FIRE UNIT 603 ADVISES DISPATCH THAT THEY  
HAVE A 4" NATURAL GAS LINE ON FIRE AND TO PAGE  
HAZMAT  
12:26:00 SECOND AMBULANCE ON SCENE AND ADVISES DISPATCH  
THEY NEED HELICOPTER TO BE ENROUTE  
12:31 58 SHERIFF'S DEPARTMENT ARRIVES ON SCENE  
12:36.28 AIR EVAC HELICOPTER IS ENROUTE

ALL OTHER TIMES ON THE REPORT ARE CORRECT  
ACCORDING TO THE RECORDER

**UNITS RESPONDING**

MED3, MED1—MCMINN CO AMBULANCE  
(EMS,MCAS)  
422—MCMINN COUNTY SHERIFF'S DEPT. (MCSO)  
ENG6. BRU6—RICEVILLE RURAL FIRE (RRFD)  
BRU8—HILLSVIEW RURAL FIRE (HRFD)  
AIR EVAC HELICOPTER (AIREV)  
HM1, DC1—HAZMAT AND DISTRICT CHIEF  
(ERFD,ERS)

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074			
Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12 03 00	12 09 36	12 09 09		0 12 56 44	12 22 45	13 58 08
Comp Type	MED	MEDICAL ASSIST				Disposition ASSIST	
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr.	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:		Cross Roads					
Comments: BURN VICTIM							
Priority	Dept	Category	ESN	Primary Unit	MED3 ,EMS ,MED1 ,422 ,ENG6 ,BRUS ,AIREV		
1	MCA	EMS		MED3	MCAS MCSO RRFD HRFD AIREV ERFD ERS		

422 13 31:58 08 CLEARED

0.0 moserc

Notes Entered By moserc 07/16/2004 01 31 58 PM  
 422 13:31 58 98 LEFT SCENE

Notes Last Update By moserc 07/16/2004 01 31 58 PM  
 0 0 moserc

Notes Entered By moserc 07/16/2004 01:31 58 PM  
 422 12 31 39 97 ARRIVED IN AREA

Notes Last Update By moserc 07/16/2004 01 31:58 PM  
 0 0 halstj

Notes Entered By halstj 07/16/2004 12 31 39 PM  
 422 12 16 09 18 ENROUTE

Notes Last Update By halstj 07/16/2004 12 31 39 PM  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12 16 09 PM  
 422 12:16 05 DIS DISPATCHED

Notes Last Update By moserc 07/16/2004 12 16 09 PM  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12:16 05 PM  
 AIREV 13:18 46 08 CLEARED

Notes Last Update By moserc 07/16/2004 12:16 05 PM  
 0 0 moserc

Notes Entered By moserc 07/16/2004 01 18 46 PM  
 AIREV 13 18:45 98 LEFT SCENE

Notes Last Update By moserc 07/16/2004 01 18 46 PM  
 0 0 moserc

Notes Entered By moserc 07/16/2004 01 18 45 PM  
 AIREV 12 57 18 TRANSPORTING TO ERLANGER

Notes Last Update By moserc 07/16/2004 01 18:45 PM  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12:57 18 PM  
 AIREV 12 51 20 97 ARRIVED IN AREA

Notes Last Update By moserc 07/16/2004 12 57 18 PM  
 0.0 moserc

Notes Entered By moserc 07/16/2004 12:51:20 PM  
 AIREV 12:36 28 18 ENROUTE

Notes Last Update By moserc 07/16/2004 12 51 20 PM  
 0.0 moserc

Notes Entered By moserc 07/16/2004 12:36 28 PM

Notes Last Update By moserc 07/16/2004 12 36 28 PM

CAD CALL # 1094		CALL TYPE CALL				CASE # 2004-07-1074		
Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed	
halstj	07/16/2004 12 03 00	12 09 36	12 09 09		0 12:56 44	12 22 45	13 58 08	
Comp Type	MED	MEDICAL ASSIST				Disposition ASSIST		
Nature:								
Plate	Make	Model		After Hrs				
Street	COUNTY ROAD 71	Color						
Driver Lic.		Driver State						
Suspect		Suspect						
Caller Addr:	207	COUNTY ROAD 71		RICEVILLE				
Resp. Addr.		COUNTY RD 100		RICEVILLE				
Caller:	HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:	Cross Roads							
Comments:	BURN VICTIM							
Priority	Dept	Category	ESN	Primary Unit	MED3 ,EMS ,MED1 ,422 ,ENG6 ,BRU8 ,AIREV			
1	MCA	EMS		MED3	MCAS MCSO RRFD HRFD AIREV ERFD ERS			
AIREV , 12 36 26 DIS DISPATCHED						0 0	moserc	
Notes Entered By moserc		07/16/2004 12 36.26 PM		Notes Last Update By moserc		07/16/2004 12 36 26 PM		
BRU6		12 51 16 97 ARRIVED IN AREA				0 0 moserc		
Notes Entered By moserc		07/16/2004 12.51 16 PM		Notes Last Update By moserc		07/16/2004 12 51 16 PM		
BRU6		12:42:01 18 ENROUTE				0 0 moserc		
Notes Entered By moserc		07/16/2004 12 42 01 PM		Notes Last Update By moserc		07/16/2004 12 42 01 PM		
BRU6		12 41 57 DIS DISPATCHED				0 0 moserc		
Notes Entered By moserc		07/16/2004 12 41 57 PM		Notes Last Update By moserc		07/16/2004 12 41 57 PM		
BRU8		12 41 37 08 CLEARED				0 0 moserc		
Notes Entered By moserc		07/16/2004 12.41.37 PM		Notes Last Update By moserc		07/16/2004 12 41 37 PM		
BRU8		12 34.10 18 ENROUTE				0 0 moserc		
Notes Entered By moserc		07/16/2004 12.34 10 PM		Notes Last Update By moserc		07/16/2004 12 34 10 PM		
BRU8		12 34 07 DIS DISPATCHED				0 0 moserc		
Notes Entered By moserc		07/16/2004 12 34 07 PM		Notes Last Update By moserc		07/16/2004 12 34 07 PM		
CH1		13 19 25 DIS DISPATCHED				0.0 ADMIN		
				RURAL COUNTY FIRE COORDINATOR				
Notes Entered By ADMIN		07/16/2004 01:19:25 PM		Notes Last Update By ADMIN		07/16/2004 01:19 25 PM		
CH1		13-11.11 DIS DISPATCHED				0 0 STATION3		
				RURAL COUNTY FIRE COORDINATOR				
Notes Entered By STATION3		07/16/2004 01 11 11 PM		Notes Last Update By STATION3		07/16/2004 01 11:11 PM		

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074				
Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed	
halstj	07/16/2004 12 03 00	12 09 36	12 09 09		0 12 56 44	12 22 45	13 58 08	
Comp Type	MED	MEDICAL ASSIST				Disposition ASSIST		
Nature:								
Plate	Make	Model		After Hrs				
Street	COUNTY ROAD 71	Color						
Driver Lic.		Driver State						
Suspect		Suspect						
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE						
Resp. Addr.	COUNTY RD 100	RICEVILLE						
Caller	HANK	SHADDEN	423-506-6893	After Hrs				
Landmark:				Cross Roads				
Comments: BURN VICTIM								
Priority	Dept	Category	ESN	Primary Unit	MED3	EMS	MED1	422
1	MCA	EMS		MED3	MCAS	MCSO	RRFD	HRFD
					AIREV	ERFD	ERS	
CH1	13:08 47	DIS	DISPATCHED	00 moserc				
				RURAL COUNTY FIRE COORDINATOR				
Notes Entered By	moserc	07/16/2004 01 08 47 PM	Notes Last Update By			moserc	07/16/2004 01 08 47 PM	
CH1	13 08 41	DIS	DISPATCHED	00 moserc				
				RURAL COUNTY FIRE COORDINATOR				
Notes Entered By	moserc	07/16/2004 01-08 41 PM	Notes Last Update By			moserc	07/16/2004 01 08 41 PM	
DC1	12 51 14	97	ARRIVED IN AREA	00 moserc				
Notes Entered By	moserc	07/16/2004 12:51 14 PM	Notes Last Update By			moserc	07/16/2004 12 51 14 PM	
DC1	12 41 00	18	ENROUTE	00 moserc				
Notes Entered By	moserc	07/16/2004 12 41 00 PM	Notes Last Update By			moserc	07/16/2004 12 41:00 PM	
DC1	12 40 58	DIS	DISPATCHED	00 moserc				
Notes Entered By	moserc	07/16/2004 12 40 58 PM	Notes Last Update By			moserc	07/16/2004 12 40 58 PM	
EMS	12 09 51	08	CLEARED	00 moserc				
Notes Entered By	moserc	07/16/2004 12:09:51 PM	Notes Last Update By			moserc	07/16/2004 12:09 51 PM	
EMS	12:09 48	DIS	DISPATCHED	00 moserc				
Notes Entered By	moserc	07/16/2004 12 09 48 PM	Notes Last Update By			moserc	07/16/2004 12 09 48 PM	
EMS	12:09 41	DIS	DISPATCHED	00 moserc				
Notes Entered By	moserc	07/16/2004 12 09 42 PM	Notes Last Update By			moserc	07/16/2004 12 09 42 PM	
EMS	12 09:36	DIS	DISPATCHED	0.0 moserc				
Notes Entered By	moserc	07/16/2004 12:09:38 PM	Notes Last Update By			moserc	07/16/2004 12 09 38 PM	



AUG-04-2004 08 17

MCHINN CO 911

423 744 8040 P 08/09

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074			
Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12 03 00	12-09 36	12 09 09	.0	12 56 44	12 22 45	13 58 08
Comp TypeMED		MEDICAL ASSIST		Disposition ASSIST			
Nature:				After Hrs			
Plate	Make	Model		Color			
Street	COUNTY ROAD 71	Driver State		Suspect			
Caller Addr: 207	-COUNTY ROAD 71	RICEVILLE		RICEVILLE			
Resp. Addr.	COUNTY RD 100						
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:		Cross Roads					
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3 ,EMS ,MED1 ,422 ,ENG6 ,BRU8 ,AIREV			
1 MCA	EMS		MED3	MCAS MCSO RRFD HRFD AIREV ERFD ERS			
ENG6	13 55 55 08	CLEARED			0.0	moserc	
Notes Entered By	moserc	07/16/2004 01 55 55 PM	Notes Last Update By	moserc	07/16/2004 01 55 55 PM		
ENG6	13 55 53 98	LEFT SCENE			0 0	moserc	
Notes Entered By	moserc	07/16/2004 01 55 53 PM	Notes Last Update By	moserc	07/16/2004 01 55 53 PM		
ENG6	12 22 45 97	ARRIVED IN AREA			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 22 45 PM	Notes Last Update By	moserc	07/16/2004 12 22 45 PM		
ENG6	12 16 42 18	ENROUTE			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 16 42 PM	Notes Last Update By	moserc	07/16/2004 12 16 42 PM		
ENG6	12 16 39 DIS	DISPATCHED			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 16 39 PM	Notes Last Update By	moserc	07/16/2004 12 16 39 PM		
HM1	12 51 18 97	ARRIVED IN AREA			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 51 18 PM	Notes Last Update By	moserc	07/16/2004 12 51 18 PM		
HM1	12 46 01 18	ENROUTE			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 46 01 PM	Notes Last Update By	moserc	07/16/2004 12 46 01 PM		
HM1	12 45 58 DIS	DISPATCHED			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 45 58 PM	Notes Last Update By	moserc	07/16/2004 12 45 58 PM		
MED1	12 56 46 08	CLEARED			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 56 46 PM	Notes Last Update By	moserc	07/16/2004 12 56 46 PM		
MED1	12 56 44 98	LEFT SCENE			0 0	moserc	
Notes Entered By	moserc	07/16/2004 12 56 44 PM	Notes Last Update By	moserc	07/16/2004 12 56 44 PM		

CAD CALL # 1094		CALL TYPE CALL		CASE # 2004-07-1074			
Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12 03.00	12 09 36	12 09 09		0 12 56 44	12 22 45	13 58 08
Comp TypeMED		MEDICAL ASSIST				Disposition ASSIST	
Nature:							
Plate	Make	Model		After Hrs			
Street COUNTY ROAD 71		Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr.	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893	After Hrs				
Landmark:		Cross Roads					
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3	EMS	MED1	422
1	MCA	EMS	MED3	MCAS	MCSO	RRFD	HRFD
				AIREV	ERFD	ERS	
MED1	12.46.56	AT HOSPITAL	AT LZ				0 0 moserc
Notes Entered By	moserc	07/16/2004 12 46 56 PM	Notes Last Update By	moserc	07/16/2004 12 46 56 PM		
MED1	12 46 38	TRANSPORTING	15-33-LZ		0 0 moserc		
Notes Entered By	moserc	07/16/2004 12.46 38 PM	Notes Last Update By	moserc	07/16/2004 12 46 38 PM		
MED1	12 26.26 97	ARRIVED IN AREA			0 0 moserc		
Notes Entered By	moserc	07/16/2004 12.26 26 PM	Notes Last Update By	moserc	07/16/2004 12 26 26 PM		
MED1	12 12 15 18	ENROUTE			0 0 halstj		
Notes Entered By	halstj	07/16/2004 12 12 15 PM	Notes Last Update By	halstj	07/16/2004 12.12 15 PM		
MED1	12 10 45 DIS	DISPATCHED			0.0 moserc		
Notes Entered By	moserc	07/16/2004 12 10 45 PM	Notes Last Update By	moserc	07/16/2004 12.10 45 PM		
MED3	13 01 29 08	CLEARED			0 0 halstj		
Notes Entered By	halstj	07/16/2004 01 01 29 PM	Notes Last Update By	halstj	07/16/2004 01 01 29 PM		
MED3	13 01 28 98	LEFT SCENE			0.0 halstj		
Notes Entered By	halstj	07/16/2004 01 01 28 PM	Notes Last Update By	halstj	07/16/2004 01 01 28 PM		
MED3	12 22 53 97	ARRIVED IN AREA			0 0 moserc		
Notes Entered By	moserc	07/16/2004 12.22.53 PM	Notes Last Update By	moserc	07/16/2004 12 22 53 PM		
MED3	12 09 09 18	ENROUTE			0.0 moserc		
Notes Entered By	moserc	07/16/2004 12.09:11 PM	Notes Last Update By	moserc	07/16/2004-12.09.11 PM		
MED3	12.09:06 DIS	DISPATCHED			0.0 moserc		
Notes Entered By	moserc	07/16/2004 12 09 07 PM	Notes Last Update By	moserc	07/16/2004 12 09 07 PM		

AUG-04-2004 08 18

MINN CO 911

423 744 8040 P 08/09

CAD CALL # 1094

CALL TYPE CALL

CASE # 2004-07-1074

Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halstj	07/16/2004 12.03 00	12 09 36	12.09 09		0 12 56 44	12 22 45	13 58 08
Comp Type	MED	MEDICAL ASSIST				Disposition ASSIST	
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr.	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark.			Cross Roads				
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3 EMS	MED1 422	ENG6 BRU8	AIREV
1 MCA	EMS		MED3	MCAS MCSO	RRFD HRFD	AIREV ERFD	ERS

-0

0 0 halstj

Notes Entered By halstj 07/16/2004 12:11:30 PM Notes Last Update By halstj 07/16/2004 12 11 30 PM  
 18 YO NICHOLAS STRICKLAND, SEVERE BURNS ON LEFT ARM, MINOR BURNS TO RT HAND  
 0 0 halstj

Notes Entered By halstj 07/16/2004 12 12 06 PM Notes Last Update By halstj 07/16/2004 12 12 06 PM  
 AND ARM. CO BORING UNDER ROAD AND MACHINE BLEW UP  
 0 0 halstj

Notes Entered By halstj 07/16/2004 12:13 13 PM Notes Last Update By halstj 07/16/2004 12 13 13 PM  
 CALLER ADVISED THE MACHINE WAS STILL BLAZING, RICEVILLE AND HILLSVIEW PAGED  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12 25 39 PM Notes Last Update By moserc 07/16/2004 12 25:39 PM  
 FIRE 603 WILL BE INCIDENT COMAND  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12:36:44 PM Notes Last Update By moserc 07/16/2004 12 36.44 PM  
 AIR EVAC HAS ETA OF 8-9 MIN.  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12 37 57 PM Notes Last Update By moserc 07/16/2004 12.37 57 PM  
 LZ IS GOING TO BE BETWEEN 47 AND SO CAR IN MIDDLE OF THE ROAD.  
 0 0 moserc

Notes Entered By moserc 07/16/2004 12 40 45 PM Notes Last Update By moserc 07/16/2004 12 40 45 PM  
 BIRD IS ON THE GROUND PER 603

CAD CALL # 1094

CALL TYPE CALL

CASE # 2004-07-1074

Call Received By	Received Date & Time	Dispatched	Enroute	On scrn	Left	Arrived	Completed
halsg	07/16/2004 12 03 00	12.09 36	12 09 09		0 12 56 44	12 22 45	13 58 08
Comp Type	MED	MEDICAL ASSIST				Disposition	ASSIST
Nature:							
Plate	Make	Model		After Hrs			
Street	COUNTY ROAD 71	Color					
Driver Lic.		Driver State					
Suspect		Suspect					
Caller Addr: 207	COUNTY ROAD 71	RICEVILLE					
Resp. Addr.	COUNTY RD 100	RICEVILLE					
Caller: HANK	SHADDEN	423-506-6893		After Hrs			
Landmark:		Cross Roads					
Comments: BURN VICTIM							
Priority Dept	Category	ESN	Primary Unit	MED3 ,EMS ,MED1 ,422 ,ENG6 ,BRU8 ,AIREV			
1 MCA	EMS		MED3	MCAS MCSO RRFD HRFD AIREV ERFD ERS			

0

00 moserc

Notes Entered By moserc 07/16/2004 12 47 23 PM

Notes Last Update By moserc

07/16/2004 12.47 23 PM

MED1 ADVISED 15-33 TO LZ ABOUT 50 YARDS

0

0.0 moserc

Notes Entered By moserc 07/16/2004 12.47 37 PM

Notes Last Update By moserc

07/16/2004 12 47 37 PM

MED1 AT LZ AT THIS TIME

0

00 moserc

Notes Entered By moserc 07/16/2004 12 51 05 PM

Notes Last Update By moserc

07/16/2004 12 51.05 PM

603 ADVISED BIRD IS IN THE AIR

0

0.0 moserc

Notes Entered By moserc 07/16/2004 01:36 15 PM

Notes Last Update By moserc

07/16/2004 01 36 15 PM

604 IS INCEDENT COMMAND

EXHIBIT 3  
(following one page)

TELEPHONIC ACCIDENT REPORT  
Section 191.5 MFSS

Date of Call 7-16-04 Time           

Person Calling to Report Incident Bob INGRAM

Name of Gas System Athens Utilities 423-829-5204

Incident information:

Date 7-16-04 Time \_\_\_\_\_

Location Co Rd 100 at Co Rd 62

Personal Injuries ✓ Yes      No Number.     7    

Did personal injuries require hospitalization?      Yes      No

Fatalities      Yes   /   No

Details of Personal Injuries and/or Fatalities Third Degree

Burns on Front of Body

Property Damage Yes No

Does amount of property damage to operators and/or others  
property exceed \$50,000? ✓ Yes      No

Details of Property Damage Trencher burned. Actual  
Damage amount is unknown

Probable Cause Gas line was not marked. Line  
nearby intersection was marked

Did the incident require the taking of any segment of transmission pipe-  
line out of service? Yes ✓No

Did the incident result in gas igniting? ✓ Yes      No

Other information \_\_\_\_\_

Has Washington been called?          Yes          No

Washington telephone number - (800) 424-8802

Signature of person completing this form:

Bruce Miller

EXHIBIT 4  
(following two pages)

# Riceville Rural Fire Department

## Trip Sheet

Date: 7-16-04

Purpose of trip: 10-72 GAS LINE

Time Notified: 12:58 Time Out: 13:05

Time on Scene: 13:22 Time in: 14:30

BRUSH 6 MLG : TANKER 6 MLG.

ENGINE 6 MLG:

Veh. Problems:

### Responding Members

DC6		F612	
F602		F613	
F603	X	F614	
F604	X	F615	X
F605 X		F616	
F606		F617	
F607		F618	
F608		F619	
F609		F620	
F610		F621	
F611		F622	

Total Time: 2.50HRS

Total Man Hrs.: 10HRS



Riceville Rural Fire Department

Date: 7-<sup>16</sup>09-04

---

**Incident Information**

---

Incident Type      Fire. **XX**      Wreck      Other

Address      **COUNTY RD. 100@ COUNTY RD 62**

Insurance

---

**Fire Information**

---

Owner      Phone

Structure      Vehicle

Grass or Brush:

Extinguishment: **SHUT OFF GAS.**

Witnesses

---

**Wreck Information**

---

Vehicle #1

Vehicle #2

Year 1.

Year 2

Make

Make 2

Model

Model 2

Owner #1

Owner #2

Phone #1

Phone #2

Tag #1.

Tag #2.

Vin #1

Vin #2

---

**Officer Information**

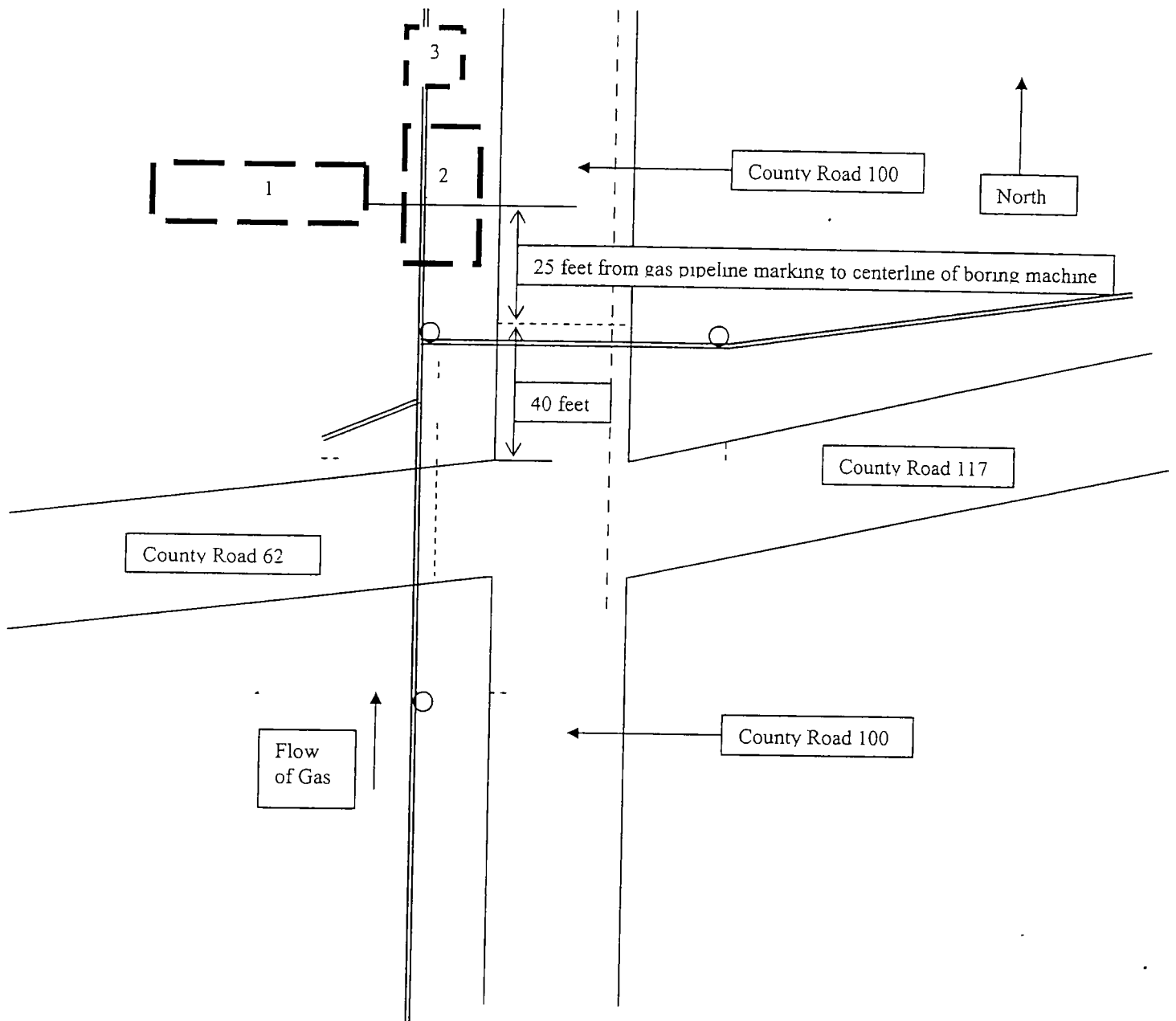
---

Observation on Arrival **FIRE COMING FROM DITCH. WORKER INJURED**





Narrative **CONSTRUCTION COMPANY DRILLED THRU PIPE**


Officer **LT.C.SCOGGINS**

EXHIBIT 5  
(following one page)



### Legend

Gas Pipeline   
 Gas Pipeline Marking   
 Telecommunications Marking   
 Fence Line 

Gas Valve 

- 1 – Excavated Boring Machine Pit by C P Asbury Construction
- 2 – Excavated Trench to repair damaged pipe section by AUB
- 3 – Excavated Trench to squeeze off north section of pipeline by AUB

EXHIBIT 6  
(following 9 pages)

## CHAPTER 31 UNDERGROUND UTILITY DAMAGE PREVENTION

### Section

- 65-31-101 Short title
- 65-31-102 Definitions
- 65-31-103 Permits do not relieve liability
- 65-31-104 Excavations without ascertainment of underground utilities prohibited
- 65-31-105 Filing requirements for utility operators.
- 65-31-106 Notice of intent to excavate or demolish
- 65-31-107 Operator associations for mutual receipt of notifications
- 65-31-108 Response to notice of intent to excavate or demolish
- 65-31-109 Emergency excavation or demolition
- 65-31-110 Precautions to avoid damage
- 65-31-111 Notice of excavation or demolition damage
- 65-31-112 Civil penalties and remedies
- 65-31-113 Severability

### 65-31-101 Short title

This chapter may be cited as the "Underground Utility Damage Prevention Act "  
[Acts 1978, ch 692, § 1, T C A., § 65-3201 ]

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-305, 8-308, 8-1001, 8-1002

Comparative Legislation Underground utility damage prevention

Ky Rev Stat Ann § 224 60-105

Mo Rev Stat § 319 010 et seq

Va Code § 56-260

## NOTES TO DECISIONS

### 1 Purpose

This chapter is intended for situations in which a contractor or excavator proposes to excavate in an area, with no prior knowledge of the location of underground utilities that would be affected by the proposed excavation *South Cent. Bell Tel Co v Jones Bros Contractors, Inc*, 805 S W 2d 749 (Tenn 1991)

### 65-31-102 Definitions

As used in this chapter, unless the context otherwise requires

- (1) "Damage" includes the substantial weakening of structural or lateral support of an underground utility, penetration or destruction of any protective coating, housing or other protective device of an underground utility, the partial or complete severance of an underground utility and rendering any underground utility inaccessible,
- (2) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved or removed by means of any tools, equipment, or discharge of explosives,
- (3) "Excavate" or "excavation" means an operation for the purpose of the movement, placement, or removal of earth, rock, or other materials in or on the ground by use of mechanized equipment or by discharge of explosives, and including augering, backfilling, digging, ditching, drilling, grading, plowing-in, pulling-in, ripping, scraping,

trenching and tunneling, but not including the tilling of soil for agricultural purposes, or the digging of holes for fence posts on private property "Agricultural purposes" includes surface activities, such as plowing, planting and combining, but does not include blasting, setting drainage tiles, subsoiling or other sub-surface activities,

(4) "Location" means the proposed area for which digging or excavating is scheduled within three (3) to ten (10) working days, such area not to exceed two thousand feet (2,000) in length unless an excavator and an operator or an operator's designated representative, such as a one-call service, agree to a larger area,

(5) "Mechanized equipment" means equipment operated by means of mechanical power including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows and other equipment used for plowing-in or pulling-in cable or pipe,

(6) "One-Call Service" means a telephone notification service described in § 65-31-107 that provides services to its members for the purposes of receiving and distributing notification regarding planned excavations or demolitions that are required under this chapter,

(7) "Operator" means any person who owns or operates a utility,

(8) "Person" means any individual, any corporation, partnership, association, or any other entity organized under the laws of any state, any state, any subdivision or instrumentality of a state, and any employee, agent, or legal representative thereof,

(9) "Proposed area of excavation" means a general surface location which excavators are to furnish to operators of underground utilities or to a one-call service as defined in § 65-31-106 The proposed area of excavation does not constitute a specified depth for the purpose of complying with the provisions of this chapter;

(10) "Utility" means any line, system or facility used for producing, storing, conveying, transmitting, or distributing communications, electricity, gas, petroleum, petroleum products, hazardous liquids, water, steam, sewerage and other underground facilities,

(11) "Working day" means every day, except Saturday, Sunday, and national and legal state holidays For purposes of measuring any period of time that requires notice under this chapter, a working day shall commence at the time the written notice or telephone call is received and shall expire at the same time on the next working day,

(12) "Calendar day" means a twenty-four (24) hour period beginning with the date and time that a notification to excavate or demolish is to begin, including Monday through Sunday and all holidays, and

(13) "Impending emergency" means circumstances potentially dangerous to life, health, property, the environment or the repair or restoration of service, which would likely develop into an emergency, as defined in § 65-31-109, if excavation is not initiated within seventy-two (72) hours

[Acts 1978, ch 692, § 2, T C A , § 65-3202, Acts 1993, ch 223, §§ 1-3, 1999, ch 73, § 1 ]

Amendments The 1999 amendment added (12) and (13)

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in § 65-31-106, 65-31-108, 65-31-109

65-31-103 Permits do not relieve liability

A permit issued pursuant to law authorizing excavation or demolition operations shall not be deemed to relieve a person from the responsibility for complying with the provisions of this chapter

[Acts 1978, ch 692, § 3, T C A , § 65-3203 ]

65-31-104 Excavations without ascertainment of underground utilities prohibited

Except as provided in § 65-31-109, no person may excavate in a street, highway, public space or a private easement of an operator, or demolish a building, without giving the notice required by § 65-31-106 in the manner prescribed by such section.

[Acts 1978, ch 692, § 4, T C A , § 65-3204, Acts 1993, ch 223, § 4 ]

Section to Section References This section is referred to in §§ 65-31-106, 65-31-110, 65-31-111

Cited South Cent Bell Tel Co v Jones Bros Contractors, Inc , 805 S W 2d 749 (Tenn 1991)

65-31-105. Filing requirements for utility operators

(a) Each operator having underground facilities in a county, including those facilities that have been abandoned in place by the operator but not yet physically removed, shall file a notice with the register of deeds of such county which states that such operator has underground utilities located in that county, the name of the operator and the name, title, address and telephone number of its representative designated to receive the written or telephonic notice of intent required by § 65-31-106 It is only necessary that such notice shall consist of the fact that the operator possesses underground facilities in the listed counties It is not necessary that the operator list the exact physical location of each and every item of its underground facilities in such counties

(b) Changes in any of the information contained in the list filed under subsection (a) shall be filed by the operator with the register of deeds of the county, or the register of deeds of each county in which these utilities are located, within thirty (30) working days of the change

(c) A filing fee as determined by the register of deeds may accompany the filing These filings shall be filed and an index shall be maintained and kept up to date by the register's office

(d) The register of deeds shall, within one (1) working day, furnish to the party requesting such information, in writing when requested, a list of all operators having filed notices pursuant to subsection (a) and all other information regarding each such operator that has been filed with the register of deeds in accordance with subsection (a) When submitted in writing by the register of deeds, the information shall also include the name of the requesting party, and the date and time the register of deeds received the request from the requesting party

(e) After March 27, 1978, operators shall maintain records and drawings of all changes and additions to its underground facilities

[Acts 1978, ch 692, § 5, T C A , § 65-3205, Acts 1993, ch 223, §§ 5-7 ]

Section to Section References This section is referred to in § 65-31-106

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-1001, 8-1002

## NOTES TO DECISIONS

### 1 Purpose.

The purpose of the filing requirement under this section is to provide anyone commencing an excavation with information relative to location of such underground facilities in order that such person may serve notice on the operator of the underground facility of their intent to excavate. *South Cent Bell Tel Co v Jones Bros Contractors, Inc*, 805 S W 2d 749 (Tenn. 1991)

65-31-106 Notice of intent to excavate or demolish

(a) Except as provided in § 65-31-109, before beginning any excavation or demolition operation described in § 65-31-104, other than an impending emergency as defined in § 65-31-102, each person responsible for such excavation or demolition shall serve written or telephonic notice of intent to excavate or demolish at least three (3) working days prior to the actual date of excavation or demolition, but not more than ten (10) full working days prior to such time, unless a different period has been agreed to in writing by the person responsible for the excavation or demolition and the operator or designated representative. Should a period of time of fifteen (15) calendar days from the actual date specified to start excavation or demolition expire without the excavation or demolition being completed, then the person responsible for such excavation or demolition shall serve an additional written or telephonic notice of intent to excavate or demolish at least three (3) working days prior to the expiration of time on the fifteenth calendar day.

(1) If the proposed area of excavation or demolition is not served by the one-call service as provided in § 65-31-107, then the notice required by subsection (a) shall be served on each operator which has filed a list required by § 65-31-105 indicating that it has underground utilities located in the county where the excavation or demolition is to occur, or

(2) If the proposed area of excavation or demolition is served by the one-call service, as provided for in § 65-31-107, the notice required by subsection (a) shall be served on such one-call service, provided, that where demolition of a building is proposed, each affected operator shall be given reasonable time to remove or protect its utilities before demolition of the building begins.

(b) The written or telephonic notice required by subsection (a) shall contain the name, address and telephone number of the person filing the notice of intent and, if different, the person responsible for the excavation or demolition, the starting date, the anticipated duration of the excavation or demolition, the type of excavation or demolition operation to be conducted, the specific location of the proposed excavation or demolition, and whether or not explosives are anticipated to be used. The location of the proposed area of excavation or demolition should be designated by the person responsible for the excavation or demolition by marking such area with "safety white" color-coded stakes or other marking devices.

(c) If the notification required by this section is made by telephone, an adequate record of such notification shall be maintained by each notified operator or one-call service to document compliance with the requirements of this chapter, and a copy of this record shall be furnished by any operator or one-call service to the person giving notice of intent to excavate or demolish, when so requested by that person.

[Acts 1978, ch 692, § 6, T C A , § 65-3206, Acts 1993, ch 223, §§ 8-12, 1999, ch 73, § 2 ]

Amendments The 1999 amendment, in (a), inserted "other than an impending emergency as defined in § 65-31-102," in the first sentence and substituted "fifteen (15)



calendar days" for "ten (10) working days" in the first sentence and "fifteenth calendar day" for "tenth working day" in the second sentence, inserted "If the proposed area of excavation or demolition is not served by the one call service as provided in Section 65-31-107, then" at the beginning of (a)(1), and rewrote (a)(2), which read "If the proposed area of excavation or demolition is served by the one-call service as provided for in § 65-31-107, the notice required by subsection (a) shall be served on such one-call service and on any operator that is not receiving the service of the one-call service and which has filed a list required by § 65-31-105 indicating that the operator has underground utilities in the county of the proposed area of excavation or demolition, provided, that where demolition of a building is proposed, each affected operator shall be given reasonable time to remove or protect its utilities before demolition of the building begins "

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in §§ 65-31-102, 65-31-104, 65-31-105, 65-31-107 - 65-31-110

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-1003, 8-1004

Cited South Cent Bell Tel Co v Jones Bros Contractors, Inc , 805 S W 2d 749 (Tenn 1991)

65-31-107 Operator associations for mutual receipt of notifications

(a) Operators may form and operate a one-call service providing for mutual receipt of notifications of excavation or demolition operations, pursuant to § 65-31-106, in a defined geographical area. A one-call service that provides such service on behalf of operators having underground utilities in Tennessee shall file with the register of deeds of the county in which those utilities are located, the telephone number and address of the one-call service, a description of the geographical area served by the one-call service, and a list of the names and addresses of all operators receiving such service from the one-call service. Any operator that suffers damage as a result of not participating in a one-call service providing for receipt of the notification of excavation or demolition operations in a defined geographic area, pursuant to § 65-31-106, waives the right to recover damages to the operator's underground utilities from the excavator, provided, that the provisions of this chapter were met by the excavator.

(b) (1) Natural gas distribution systems are required to belong to a one-call service formed in a geographical area in which such gas distribution systems operate.

(2) Only one (1) one-call service shall be formed and operated within a defined geographical area.

(3) [Deleted by 1999 amendment ]

[Acts 1978, ch 692, § 7, T C A , § 65-3207, Acts 1993, ch 223, § 13, 1996, ch 855, §§ 1-3, 1999, ch 73, § 3 ]

Amendments The 1999 amendment added the third sentence in (a), and deleted (b)(3), which excluded from subsection (b) counties having populations of not less than 27,100 nor more than 27,400, or of not less than 41,300 nor more than 41,600, or of 100,300 nor more than 100,600, according to the 1990 federal census or any subsequent federal census.

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in §§ 65-31-102, 65-31-106, 65-31-108, 65-31-109.

65-31-108 Response to notice of intent to excavate or demolish

- (a) Each operator notified in accordance with § 65-31-106 shall stake or otherwise mark, prior to the noticed time of the proposed excavation or demolition, the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition. The operator shall not be required to indicate the depth of any such utility, but only the approximate ground location under which the utility is located. Such staking or other marking shall utilize the following color code:
- (1) SAFETY RED shall be used to mark electric power distribution and transmission facilities,
  - (2) HIGH VISIBILITY SAFETY YELLOW shall be used to mark gas and oil distribution and transmission facilities,
  - (3) SAFETY ALERT ORANGE shall be used to mark telephone, telegraph, cable television, video, and other telecommunications facilities,
  - (4) SAFETY PRECAUTION BLUE shall be used to mark water systems facilities;
  - (5) SAFETY GREEN shall be used to mark sewer systems facilities, and
  - (6) SAFETY PURPLE shall be used to mark reclaimed water.
- (b) An excavator shall exercise reasonable care to avoid damage caused by an excavation or demolition within the safety zone around the marked location of the underground utilities. For the purpose of this section, "safety zone" means a strip of land at least four feet (4') wide, but not wider than the width of the utility plus two feet (2') on either side of the utility.
- (c) If, upon arrival at the site of a proposed excavation, the excavator observes clear evidence of the presence of an unmarked utility in the area of the proposed excavation, the excavator shall not begin excavating until an additional notice is made to the one-call. The excavator may then proceed, exercising reasonable care to avoid damage to the utility which may be caused by such excavation or demolition.
- (d) If no facilities exist in the tract or parcel of land, the operators shall make a reasonable effort to so advise the individual who initiated the request, provided the request is received in accordance with § 65-31-106.
- (e) The approximate location of underground utilities does not include a designation of location as to depth below the surface of the ground. Excavators must use reasonable care to ascertain for themselves the exact depth of the underground utilities below the surface of the ground. If, after so ascertaining, the excavator learns that its excavation or demolition is likely to interfere with the operation of the underground utility facilities, it must again notify the affected operator of such underground utility facilities and reasonably cooperate with the operator of the underground utility facilities to conduct its excavation or demolition in such a way that the operations of the underground utility facilities are not disturbed or the affected underground utility facilities are placed out of the way of the proposed excavation or demolition.
- (f) Each operator notified in accordance with § 65-31-109, shall within two (2) hours stake or otherwise mark, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition.
- (g) Each operator notified of an impending emergency, as defined in § 65-31-102, shall stake or otherwise mark, prior to the noticed time of the proposed excavation or

demolition, utilizing the color code set forth in subsection (a), the surface of the tract or parcel of land affected by the excavation or demolition to indicate the approximate location of all its underground utilities that may be damaged as a result of the excavation or demolition

[Acts 1978, ch 692, § 8, T C A , § 65-3208, Acts 1993, ch 223, § 14, 1999, ch 73, § 4 ]  
Amendments The 1999 amendment added (a)(6), added present (c) and redesignated former (c) and (d) as present (d) and (e) respectively, and added (f) and (g)

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This chapter is referred to in § 65-31-109

This section is referred to in §§ 65-31-104, 65-31-109, 65-31-112.

Textbooks Tennessee Forms (Robinson, Ramsey and Harwell), Nos 8-1003, 8-1004  
65-31-109 Emergency excavation or demolition

(a) Compliance with the notice requirements of § 65-31-106 is not required of any person responsible for emergency excavation or demolition, for repair or restoration of service or to ameliorate an imminent danger to life, health, or property, provided, that such person gives, as soon as practicable, oral notice of the emergency excavation or demolition to each operator having underground utilities located in the area (or to a one-call service provided for in § 65-31-107, that serves an operator) where such excavation or demolition is to be performed and requests emergency assistance from each operator so identified in locating and providing immediate protection to the operator's underground utilities "Emergency" means an imminent danger to life, health, or property, whenever there is a substantial likelihood that loss of life, health or property will result before the procedures under §§ 65-31-106 and 65-31-108 can be fully complied with.

(b) Any excavator providing a misrepresentation of an emergency excavation as stated in subsection (a), or an "impending emergency," as defined in § 65-31-102, shall be subject to the penalties stated in § 65-31-112

[Acts 1978, ch 692, § 9, T C A , § 65-3209, Acts 1993, ch 223, § 15, 1999, ch 73, § 5 ]  
Amendments The 1999 amendment designated the existing provisions as (a), and added (b)

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Section to Section References This section is referred to in §§ 65-31-102, 65-31-104, 65-31-106, 65-31-108

65-31-110 Precautions to avoid damage

In addition to the notification requirements of § 65-31-106, each person responsible for any excavation or demolition operation designated in § 65-31-104 shall

(1) Plan the excavation or demolition to avoid damage to and minimize interference with underground utilities in and near the construction area,

(2) Maintain a clearance between an underground utility and the cutting edge or point of any mechanized equipment in accordance with § 65-31-108(b) and (d), taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such utility, and

(3) Provide such support and protection for underground utilities in and near the construction area, including during backfill operations, as may be reasonably necessary for the protection of such utilities

[Acts 1978, ch 692, § 10, T C A , § 65-3210, Acts 1993, ch. 223, §§ 16-18 ]

65-31-111 Notice of excavation or demolition damage

- (a) Except as provided by subsection (b), each person responsible for any excavation or demolition operation described in § 65-31-104 that results in any damage to an underground utility shall, immediately upon discovery of such damage, notify the operator of such utility of the location and nature of the damage and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility
- (b) Each person responsible for any excavation or demolition operation described in § 65-31-104 that results in damage to an underground utility permitting the escape of any flammable, toxic, or corrosive gas or liquid shall, immediately upon discovery of such damage, notify the operator, police and fire departments, and take any other action as may be reasonably necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire departments
- (c) During initial excavation, if an underground utility is found to be unsound due to deterioration, the person responsible for excavation shall immediately notify the utility company involved and shall allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of such utility

[Acts 1978, ch 692, § 11, T C A , § 65-3211, Acts 1993, ch 223, § 19 ]

65-31-112 Civil penalties and remedies

- (a) Any person who violates any provision of this chapter commits a Class A misdemeanor, and is subject to a fine not to exceed two thousand five hundred dollars (\$2,500) or a term of imprisonment not to exceed forty-eight (48) hours, or both
- (b) (1) Any excavator who violates the provisions of this chapter may be issued a citation by any local or state law enforcement officer or permitting agency inspector, and the issuer of a citation may require any excavator to cease work on any excavation or not start a proposed excavation until there has been compliance with the provisions of this chapter
- (2) If, after receiving proper notification as required in § 65-31-106, an operator fails to locate its facilities as required in § 65-31-108, an underground facility of such operator is damaged by an excavator who has complied with the provisions of this chapter, and such damage is a proximate result of the operator's failure to discharge such duty, then such excavator shall not be liable for such damage
- (c) (1) Any person who violates any provision of this chapter may be required to appear before the appropriate court as set forth in § 40-1-107 Any person who fails to appear or otherwise properly respond to a citation issued pursuant to this section shall, in addition to the penalties as set forth in the citation, be charged with a misdemeanor offense and, upon conviction, commits a Class B misdemeanor, punishable as provided in § 40-35-111
- (2) Any person cited for a violation of this chapter, unless required to appear before the appropriate court may
  - (A) Post a bond, which shall be equal in the amount to the applicable penalty, or
  - (B) Sign and accept a citation promising to appear before the appropriate court
- (3) The issuing officer shall indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable penalty

(4) Any person charged with a violation of this chapter, unless required to appear before the appropriate court, may

(A) Pay the penalty, in lieu of appearance, either by mail or in person, within ten (10) days after the date of receiving the citation, or

(B) Forfeit the bond, if a bond is posted, by not appearing at the designated time and location

(5) If the person cited follows either of the procedures of subdivisions (c)(4)(A) or (B), such person shall be deemed to have admitted to committing the infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission may be used as evidence in any other proceeding.

(d) Any person who knowingly and willfully removes or otherwise destroys the stakes or other physical markings used to mark the horizontal route of an underground facility commits the offense of vandalism as set forth in § 39-14-408, and shall be subject to the punishment for vandalism as set forth in § 39-14-105.

[Acts 1978, ch 692, § 12, T C A , § 65-3212, Acts 1985, ch 69, § 1, 1999, ch 73, § 6 ]  
Amendments The 1999 amendment rewrote this section, which read "Any person who violates any provision of this chapter shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each violation. Actions to recover the penalty provided for in this section shall be brought by the attorney general and reporter at the request of any person in the chancery or circuit court in the county in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides. All penalties recovered in any such actions shall be paid into the general fund of the state. Nothing in this chapter shall be construed to modify or repeal existing laws pertaining to the tort liability of local governments and their employees. The remedy set forth in this section is not exclusive but is in addition to any other available remedies for personal injury or property damage (including underground utility damage) whether arising as a result of a violation of the provisions of this chapter or otherwise."

Effective Dates Acts 1999, ch 73, § 7 July 1, 1999

Cross-References Penalty for a Class A misdemeanor, § 40-35-111

Penalty for a Class B misdemeanor, § 40-35-111

Section to Section References This section is referred to in 65-31-109

#### COLLATERAL REFERENCES

Applicability of rule of strict liability to injury from electrical current escaping from powerline 82 A L R 3d 218, 60 A L R 4th 732

Liability of gas company for damage resulting from failure to inspect or supervise work of contractors digging near gas pipes 71 A L R 3d 1174

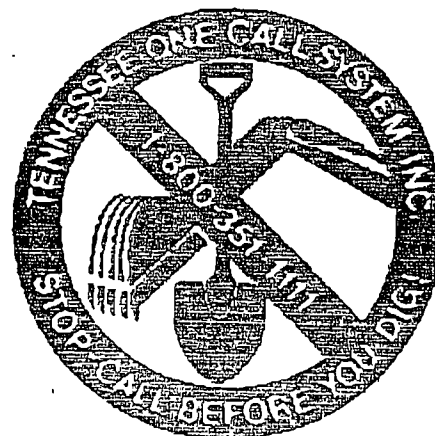
65-31-113 Severability

If any provisions of this chapter or the applicability thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby

[Acts 1993, ch 223, § 20 ]

EXHIBIT 7  
(following four pages)

TENNESSEE ONE-CALL  
SYSTEM, INC.  
www.tnonecall.com



Phone: (615) 367-1110  
Fax: (615) 366-5021

Date:

7/19/04

Fax To:

BRAD WILLIAMS

Fax #

741-1228

From:

BILL TURNER

Total number of pages including cover sheet. 3

Comments:

PER YOUR REQUEST.

IF WE CAN DO ANYTHING ELSE

LET ME KNOW

Bill

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2525 Perimeter Place Dr \* Suite 118\* Nashville, TN 37214  
Member's Line (800) 351-1111

**041951932**

<u>Ticket Number</u>	041951932	<u>Old Ticket</u>	
<u>Priority</u>	Normal	<u>Operator</u>	Klisy
<u>Hours Notice</u>	72	<u>Ticket Source</u>	Voice
<u>Ticket Type</u>	Normal	<u>Ticket Date</u>	7/13/2004 8:56.00PM

**Company Information**

GREEN BROS CONSTRUCTION	<u>Type</u>	Contractor	
676 BOWMAN LOOP	<u>Contact:</u>	RICHARD GREEN	
CROSSVILLE, TN 38571	<u>Caller</u>	DEBBIE GREEN	
<u>Phone</u> (931) 484-1707		(931) 484-1707	<u>Ext</u>
<u>Fax</u>			

**Work Information**

<u>State:</u>	TN	<u>Work Date:</u>	7/16/2004 at 9:00:00PM
<u>County:</u>	MCMINN	<u>Work Type:</u>	WATER LINE, INSTL
<u>Place</u>	RICEVILLE	<u>Done For:</u>	RICEVILLE UTILITY DISTRICT
<u>Street:</u>	CORD 62		
<u>Intersection:</u>	CORD S1		
<u>Explosives:</u>	No	<u>Add'l Locates:</u>	False
<u>White Paint:</u>	No	<u>Extent:</u>	10,000

**Remarks**

FROM THE INTER GO 16,000FT NE & MARK NE APPX 2000FT MARKING BOTH SIDES OF RD. ENDING @ CORD 100. CORD 62 WILL CHG TO CORD 117. RICHARD GREEN IS THE CONTACT IN CASE LOCATORS HAVE ANY QUESTIONS.

**Mapping Information**

Grids: 63P; 72D; 73A

Caller Supplied Grids: Yes

**Dispatch Centers**

<u>Code</u>	<u>Name</u>	<u>Added Manually</u>	<u>Suppressed</u>
AUB	Athens Utl Board	False	False
802	BellSouth - Chattanooga	False	False



**041951933**

<u>Ticket Number</u>	041951933	<u>Old Ticket</u>	
<u>Priority</u>	Normal	<u>Operator</u>	Kisty
<u>Hours Notice</u>	72	<u>Ticket Source</u>	Voice
<u>Ticket Type</u>	Normal	<u>Ticket Date</u>	7/13/2004 8:58:00PM

**Company Information**

GREEN BROS CONSTRUCTION	<u>Type</u>	Contractor	
676 BOWMAN LOOP	<u>Contact</u>	RICHARD GREEN	
CROSSVILLE, TN 38571	<u>Caller</u>	DEBBIE GREEN	
<u>Phone</u> (931) 484-1707		(931) 484-1707	<u>Ext</u>
<u>Fax</u>			

**Work Information**

<u>State</u>	TN	<u>Work Date</u>	7/16/2004 at 9:00:00PM
<u>County</u>	MCMINN	<u>Work Type</u>	WATER LINE, INSTL
<u>Place</u>	RICEVILLE	<u>Done For</u>	RICEVILLE UTILITY DISTRICT
<u>Street</u>	CORD 100		
<u>Intersection</u>	CORD 62		
<u>Explosives</u>	No	<u>Add'l Locates</u>	False
<u>White Paint</u>	No	<u>Extent</u>	

**Remarks**

@ INTER MARK CORD 100 FOR APPX 500 FT N & S ON BOTH SIDES OF RD CORD 62 WILL CHG TO CORD 117. RICHARD GREEN IS THE CONTACT IN CASE LOCATERS HAVE ANY QUESTIONS.

**Mapping Information**

Grids 72D; 72E; 73A, 73H

Caller Supplied Grids Yes

**Dispatch Centers**

<u>Code</u>	<u>Name</u>	<u>Added Manually</u>	<u>Suppressed</u>
AUB	Athens Util Board	False	False
B02	BellSouth - Chattanooga	False	False
RICE	Riceville Utility Dist	False	False

**041900438**

<u>Ticket Number</u>	041900438	<u>Old Ticket</u>	
<u>Priority</u>	Normal	<u>Operator</u>	Desi
<u>Hours Notice</u>	72	<u>Ticket Source</u>	Voice
<u>Ticket Type</u>	Normal	<u>Ticket Date</u>	7/8/2004 8:37:00AM

**Company Information**

C P ASBERRY CONSTRUCTION	<u>Type:</u>	Contractor	
400 CARSON ROAD	<u>Contact:</u>	HANK SHADDEN	
CROSSVILLE, TN 38558	<u>Caller:</u>	HANK SHADDEN	
<u>Phone:</u> (931) 484-7305		(931) 484-7305	<u>Ext</u>
<u>Fax:</u>			

**Work Information**

<u>State:</u> TN	<u>Work Date:</u> 7/13/2004 at 8:45:00AM
<u>County:</u> MCMINN	<u>Work Type:</u> ROAD BORE
<u>Place:</u> RICEVILLE	<u>Done For:</u> GREENBROTHERS CONSTRUC
<u>Street:</u> CORD 100	
<u>Intersection:</u> CORD 62	
<u>Explosives:</u> No	<u>Add'l Locates:</u> False
<u>White Paint:</u> No	<u>Extent:</u>

**Remarks**

FROM ABOVE INTER MARK GO N/NW FOR APPX 200FT

**Mapping Information**Grids: 72D; 73ACaller Supplied Grids: No**Dispatch Centers**

<u>Code</u>	<u>Name</u>	<u>Added Manually</u>	<u>Suppressed</u>
AUB	Athens Util Board	False	False
B02	BellSouth - Chattanooga	False	False

**EXHIBIT 8**  
**(following 4 pages)**

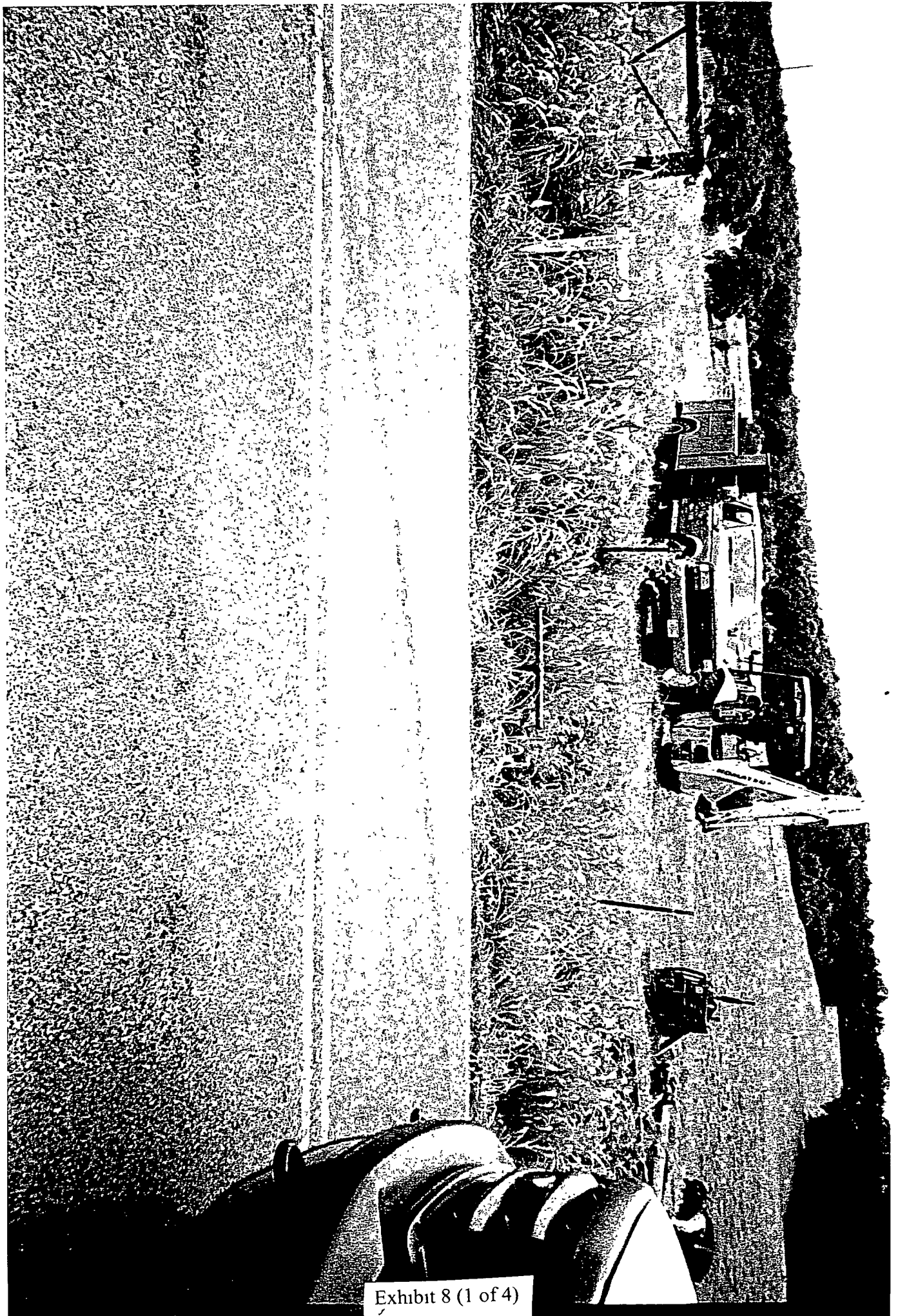


Exhibit 8 (1 of 4)



Exhibit 8 (2 of 4)

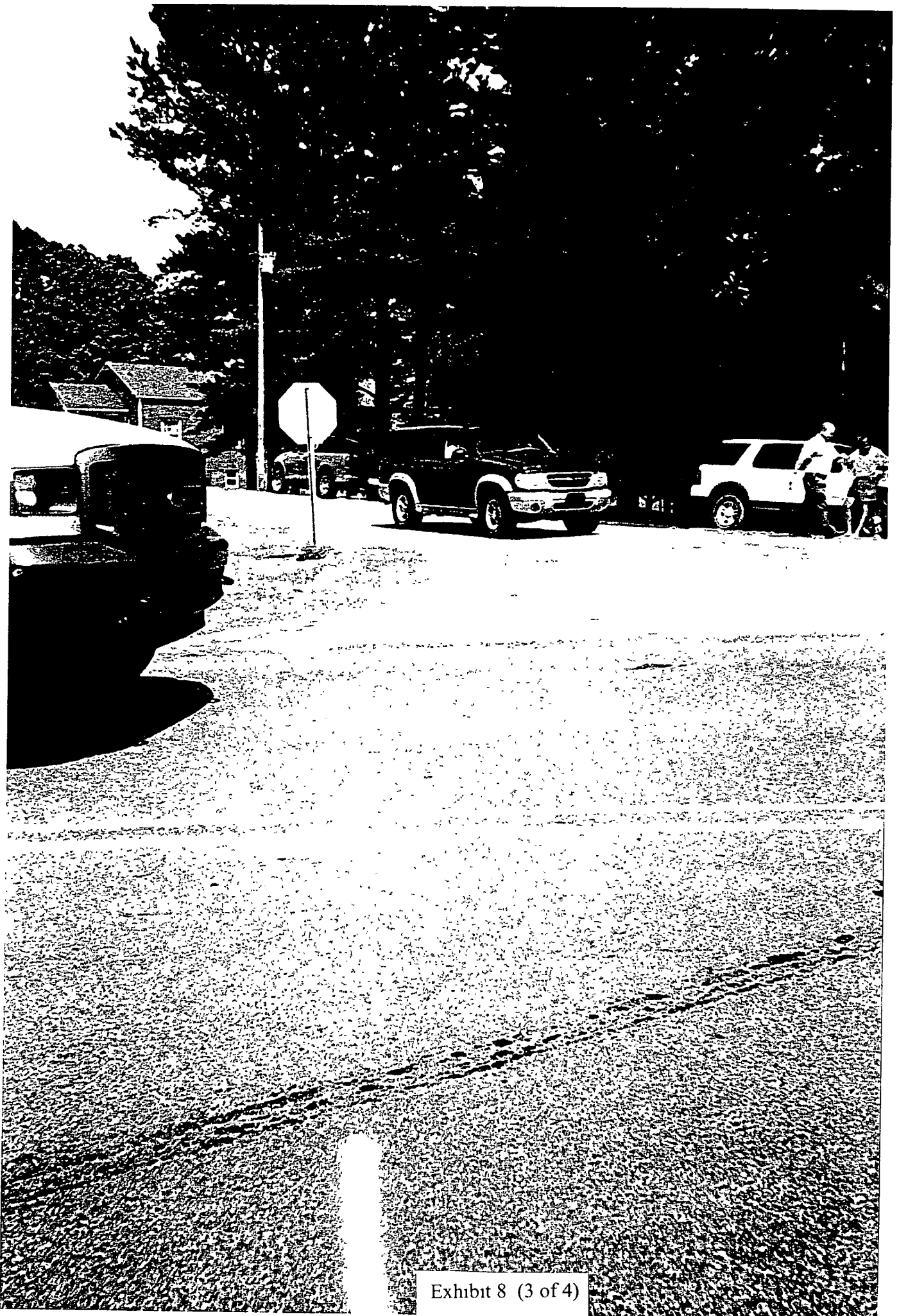






Exhibit 8 (2 of 4)

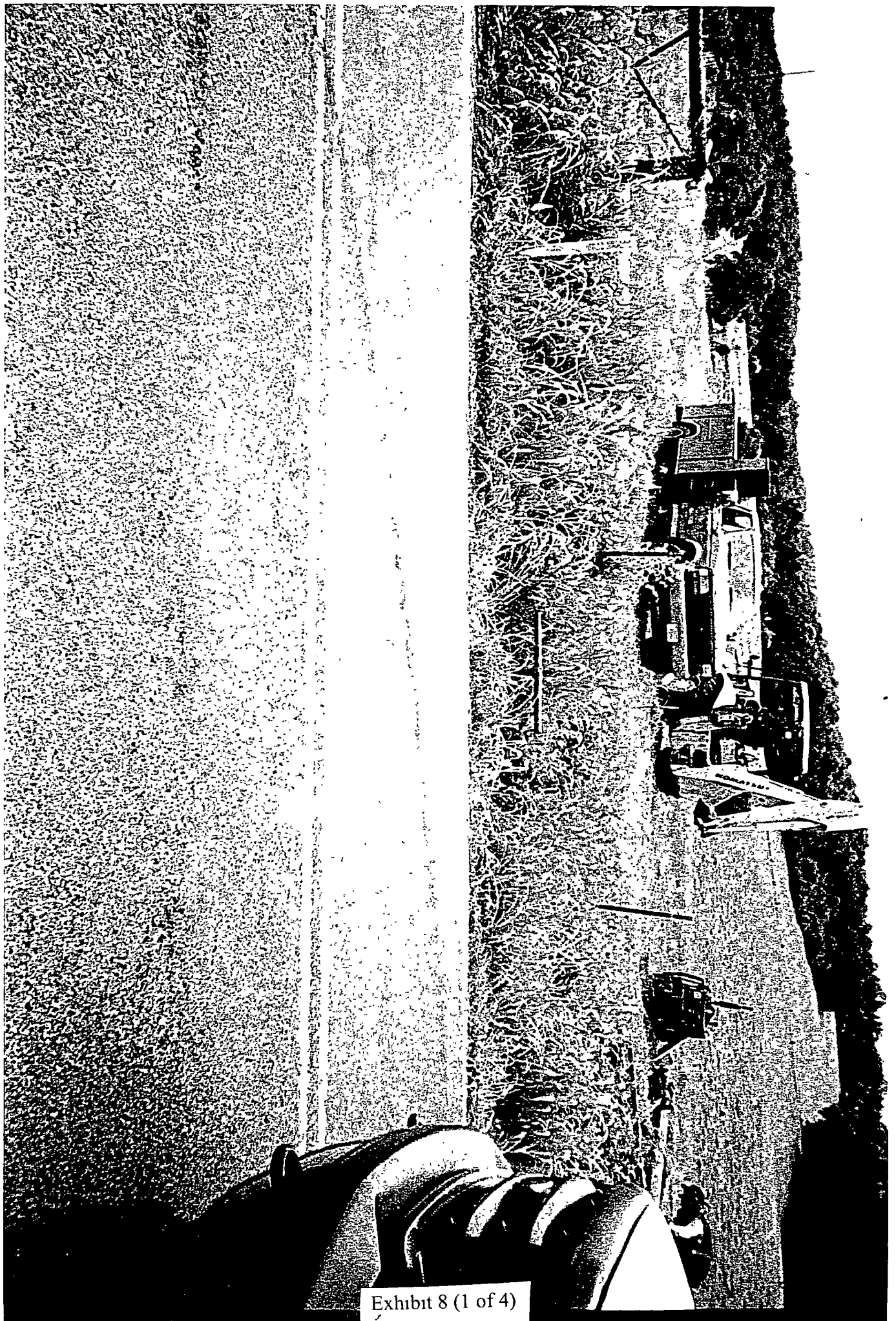
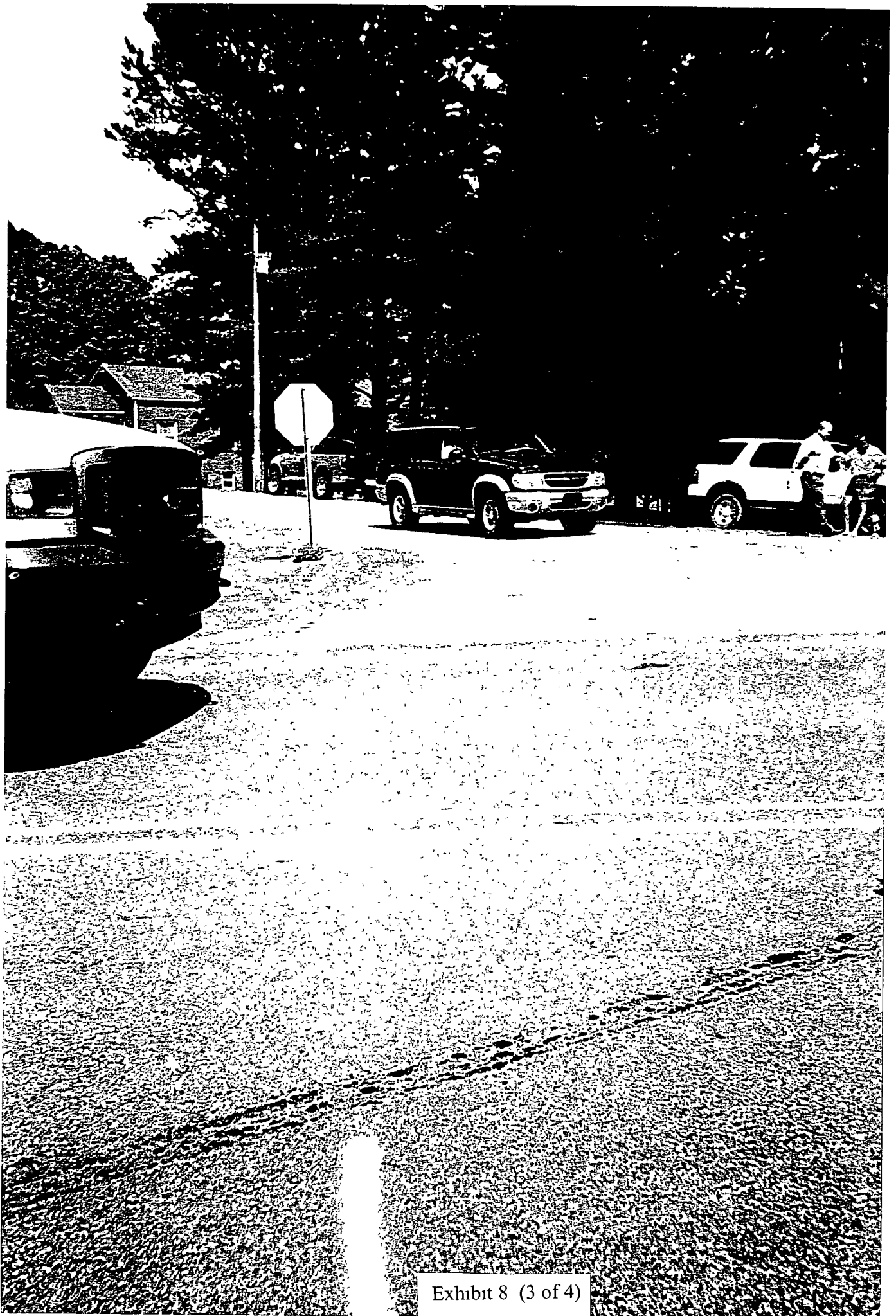


Exhibit 8 (1 of 4)





Exhibit 8 (2 of 4)



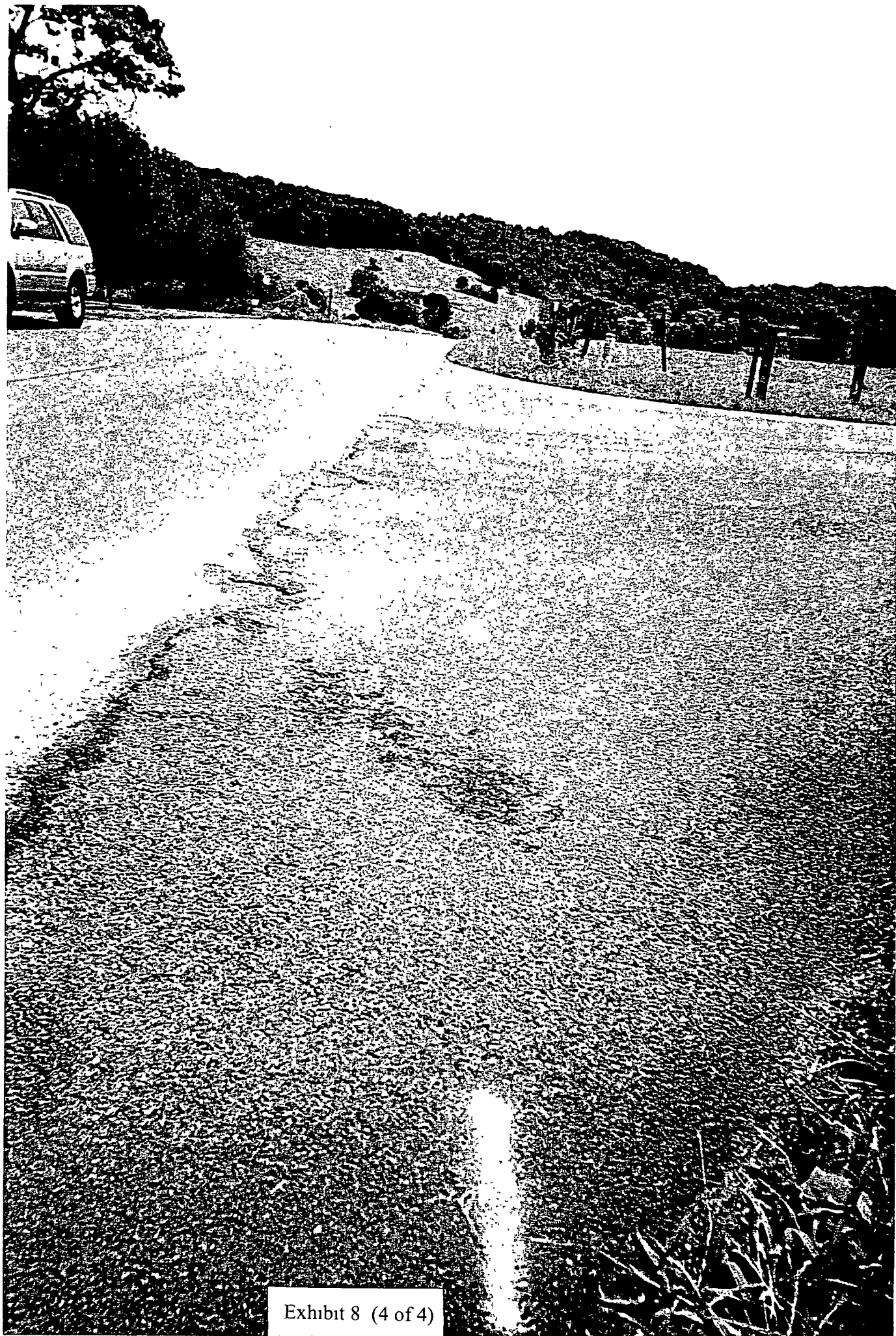


EXHIBIT 9  
(following 9 pages)

Operations & Maintenance Manual  
Athens Utilities Board

Section 4 0

DAMAGE PREVENTION PROGRAM  
192 614

Page No

4 1	Damage Prevention Requirements	4 1-1
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4 3	Receipt of Calls from "One Call"	4 3-1
4 4	Marking of Pipelines	4 4-1
4 5	Listing of Excavators	4 5-1, -2, -3

Revised Date 12/04

Approved By \_\_\_\_\_ Date \_\_\_\_\_

Approved By \_\_\_\_\_ Date \_\_\_\_\_

# Operations & Maintenance Manual

## Athens Utilities Board

### 4 1 Damage Prevention Requirements

4 1 1 A Damage Prevention Program is required under Section 192 614 of the Department of Transportation, Minimum Federal Safety Standards

4 1 2 The essential requirements of the program must include the following provisions

- ♦ Identifying persons who normally engage in excavation activities (Contractors),
- ♦ Provide for notification of excavators and the general public about the program's existence,
- ♦ A program to receive location requests from excavators and from the general public,
- ♦ A program to contact excavators, and
- ♦ A program to mark the pipeline

### 4 1 3 Purpose

The Damage Prevention Program is designed to prevent damage to underground facilities caused by excavating activities. In addition to excavating it includes blasting, boring, tunneling, backfilling, and the removal of above-ground structures by either explosive or mechanical means.

# Operations & Maintenance Manual

## Athens Utilities Board

### 4 2 Compliance

#### 4 2 1 Identify Excavation Contractors

- ♦ Superintendent or his designated representative shall be responsible for the identification of the excavators
- ♦ To assist in preparing this list contacts can be made with the one call center, telephone company, electric and co-op utilities, water and sewer utilities, city, county and state governments, reference to the yellow pages, and other local services
- ♦ Identification of contractors shall be maintained on a continuing basis and shall be upgraded as new information is received

#### 4 2 2 Notification of Contractors

Superintendent or delegate will insure that a letter is sent once each year, preferably in March, to each excavator which will include the following information

- ♦ The existence and purpose of the Damage Prevention Program,
- ♦ How to determine the location of underground facilities before excavating begins,
- ♦ The address and phone number of the One-Call System operating areas,
- ♦ How the gas company will respond to requests from One-Call to locate facilities,
- ♦ How the utility will mark its facilities,
- ♦ Include the address and phone number of the local gas company's office or operations center, and
- ♦ For emergency use, include the after hour calls phone number

If the Superintendent or delegate elects to have a third party, i.e. state one-call system, provide the annual notice to the contractor, their annual standard letter shall be considered compliance with this section

#### 4 2.3 Notification of the General Public

The general public will be informed of the Damage Prevention Program by one or more of the following means

- ♦ Newspaper or magazine advertisement
- ♦ Radio or TV broadcast
- ♦ Messages on gas bills

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## Operations & Maintenance Manual Athens Utilities Board

- ♦ Notice in directories of the telephone yellow pages
- ♦ Hand outs
- ♦ By speakers addressing local groups
- ♦ During school programs

All messages should emphasize the need to call the "One Call System" when anyone has a need to excavate on public or private property. Further explain how the utilities will respond and locate underground facilities.

### 4 2 4 Letter

Dear

Federal and State regulations require Athens Utilities Board to have a Damage Prevention Program in order to prevent damage to its underground facilities. Damage to our facilities is often caused by excavating, boring, tunneling, backfilling, or removal of above ground structures. The purpose of this letter is to inform you of your responsibilities to have all facilities located before you begin the activities mentioned above, and how Athens Utilities Board and the "One Call System" can assist you.

For your convenience Athens Utilities Board and other utilities have joined a "One Call System." All you have to do is call the "One Call" number and provide them with the information concerning your work. They in turn will alert the utilities that are participating in the "One Call" program.

### ONE CALL SYSTEM OF TENNESSEE 1-800-351-1111

Within 72 hours, Athens Utilities Board will investigate the area of your work, and mark in yellow paint, flags, or stakes where our pipelines are located. Every effort is made to place the markings directly above the pipe, but could vary two feet in either direction. Depth is not usually indicated, requiring extreme caution while excavating in close proximity of a marked facility. It is highly recommended that pipelines be exposed by hand digging.

In the event of an emergency, please call us at (423) 745-4501. Someone will be able to assist you.

Damaging a gas line is extremely hazardous and can result in an explosion, fire, death, severe injury, destruction and costly litigation. You can, and most likely will, be held liable for all potential liabilities caused by neglecting to have facilities properly located or exercising improper excavation procedures. This is the reason we are making this effort to advise you of your responsibilities and steps to take to prevent unnecessary damage and public harm.

If you have any need of assistance or help, please let us know. We are committed to assist you in any way we can.

Sincerely yours,

Page 4 2-2

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Approved By \_\_\_\_\_ Date \_\_\_\_\_



## Operations & Maintenance Manual

### Athens Utilities Board

#### 4 3 Receipt of Calls from "One Call"

4.3.1 All facsimiles from the state "One Call" system for Underground Facilities Location Request shall be recorded.

4.3 2 When notification of "Request For Location" is received from "One Call Systems" by fax or tele-type, a copy of this request will serve as a work order. The employee locating the facility shall record all pertinent information on the request.

#### 4 3 3 Follow Up Recommendation

- ♦ Follow-up of line locations must include areas where blasting occurs, but may include any excavation which the inspector deems necessary to recheck.
- ♦ The recheck will be recorded before the locate ticket is turned in as completed. A leak survey is required after blasting activities.

4 3 4

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### 4.4 Marking of Pipelines

- 4.4.1 Pipelines shall be located with the use of "Pipeline Locating Instruments." It will be stated in letters as well as personal contacts with contractors, that the markings represent only approximate horizontal positions of the facility and to verify the precise location that should be exposed by hand digging. The location will be marked by spraying with yellow paint, or the installation of stakes or flags.

For information the national marking color codes for utilities are listed as follows:

- Safety Yellow      Gas or Oil Pipelines
- Safety Blue      Water Systems
- Safety Green      Sewer Systems
- Safety Red      Electrical Power
- Safety Orange      Communications Systems
- Safety White      Excavation

Locations are approximations and may vary 24" from the centerline of the pipeline.

### 4.4.2 Responsibility

The Superintendent is responsible for maintenance of records.

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## Operations & Maintenance Manual Athens Utilities Board

### 4 5 Listing of Excavators

The following is a list of current excavators that operate in McMinn County, Tennessee. This list is kept in compliance with the U.S. Department of Pipeline Safety Regulations, Part 192.14.

Advanced Mechanical Systems P.O. Box 1148, Athens, TN 745-2595  
Contact: Phil Fletcher, Owner

Arnett Heating & Air 312 Congress Pkwy Athens, TN 745-9279  
Contact: Tom Arnett, Owner

Athens Cablevision 408 S. White St., Athens, TN 745-6480  
Contact: Sam Wattenbarger, Foreman

Athens Public Works Dept. 219 Alford St., Athens, TN 745-3140  
Contact: Calvin Clifton, Director

Renfro 105 Co. Rd. 173, Athens, TN 745-9281  
Contact: Buddy Browder

Billy's Heat & Air 111 North Ave., Athens, TN 744-7428  
Contact: Billy Baxter, Owner

Crisp Excavating 573 Co. Rd. 213, Athens, TN 745-1949  
Contact: Clyde Crisp, Owner

Clifford Hampton Construction 1009 Co. Rd. 172, Athens, TN 745-1352  
Contact: Clifford Hampton, Owner

Curtis-Martin Company 284 Co. Rd. 197, Athens, TN 745-1500  
Contact: Bill Curtis / Lamar Martin

E & B Contractors 219 Pike St., Athens, TN 745-8392  
Contact: Ernest Wattenbarger, Owner

Evans Excavating 2109 Ingleside Ave., Athens, TN 745-7163  
Contact: Buster Evans, Owner

East Tennessee Natural Gas Knoxville Office 629-4667  
Contact: Dispatch Office

Englewood Water Dept. P.O. Box 150, Englewood, TN 887-7224

Feezell's Plumbing 402 Athens St., Englewood, TN 745-9053  
Contact: Dewey Feezell, Owner

Ford Excavating 1472 Hwy. 30W, Athens, TN 745-2498

Gunn Trenching 135 Co. Rd. 307, Athens, TN 745-7166  
Contact: Jess Gunn, Owner

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## Operations & Maintenance Manual Athens Utilities Board

### Listing of Excavators (continued)

J W Irons 164 Co Rd 126, Athens, TN 745-5225  
Contact J W Irons, Owner

King Excavating 121 Co Rd 213, Athens, TN 745-6648

Martin Construction P O Box 561, Athens, TN 744-7507  
Contact James Martin, Owner

McKinney Excavating 1593 Hwy 30E, Athens, TN 745-1700  
Contact Mack McKinney, Owner

McMinn Co Hwy Dept Knoxville Hwy, Athens, TN 745-1820  
Contact Jim Bishop

Monroe Backhoe Service 189 Co Rd. 210, Athens, TN 745-1035  
Contact Richard Monroe, Owner

Monroe Paving Co Lost Sea Pike, Sweetwater, TN 337-4252

Morgan Well Drilling 189 Co Rd 554, Athens, TN 745-2567  
Contact Tony Morgan

Niota Waterworks 201 E Main St, Niota, TN 568-2584  
Contact Jim Clark, Foreman

Pilkey Excavating 541 Co. Rd 442, Athens, TN 745-9247

Plantation Pipeline Chattanooga Office 892-7626  
Contact James Baker

Pryor Excavating 660 Co Rd 181, Athens, TN 744-0099

Riceville Waterworks Hwy 11, Riceville, TN 462-2272

Schultz Plumbing 258 Co Rd 705, Athens, TN 745-4581  
Contact Don Schultz, Owner

South Central Bell Regional Office, Athens, TN 745-9071

Star Construction Knoxville, TN 1-800-824-6488  
Contact Clark Post, Engineer

Stephens Excavating 299 Co Rd 360, Niota, TN 568-2924  
TDS Telephone Tellico Plains, Tn 568-2105  
Contact Office

Thomas Builders 416 N Cong Pkwy, Athens, TN 745-5849  
Contact Office

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## Operations & Maintenance Manual Athens Utilities Board

### Listing of Excavators (continued)

Valley Electric & Plumbing 112 Starrett St , Sweetwater, TN 337-6200  
Contact Billy West, Owner

Volunteer Electric Coop Hwy 58, Decatur, TN 334-5721  
Contact Jim Buchanan

Walden Excavating 821 Wilson St , Niota, TN 568-2624

Webb Plumbing & Heating P O Box 847, Athens, TN 745-3590  
Contact Bill Vicars, Owner

White Excavating 135 Co Rd 659, Athens, TN 745-4429  
Contact Larry White, Owner

Womac Excavating 287 Co Rd 309, Niota, TN 568-2966  
Contact Ransom Womac, Owner

Revised Date 12/04

Approved By \_\_\_\_\_ Date \_\_\_\_\_

Approved By \_\_\_\_\_ Date \_\_\_\_\_

EXHIBIT 10  
(following 2 pages)

From "Bob Ingram" <bingram@aub.org>  
To "Eric Cherry" <Eric.Cherry@state.tn.us>  
Date 8/3/2004 8:44:50 AM  
Subject RE: questions answered

Yes. All personnel have been qualified. And yes, we do have the records.

Bob Ingram  
Superintendent  
Division of Natural Gas  
Athens Utilities Board  
423-745-4501  
423-829-5204

-----Original Message-----

From: Eric Cherry [mailto:Eric.Cherry@state.tn.us]  
Sent: Tuesday, August 03, 2004 8:52 AM  
To: Bob Ingram  
Subject: RE: questions answered

Was he OQ qualified in pipe locating?

>>> "Bob Ingram" <bingram@aub.org> 8/3/2004 6:26:47 AM >>>  
The individual was Brad Hester

Bob Ingram  
Superintendent  
Division of Natural Gas  
Athens Utilities Board  
423-745-4501  
423-829-5204

-----Original Message-----

From: Eric Cherry [mailto:Eric.Cherry@state.tn.us]  
Sent: Monday, August 02, 2004 2:53 PM  
To: Bob Ingram  
Subject: Re: questions answered

Bob,

Who was the individual who was responsible for the locate?

I'll give you a call here in a little bit.

Eric

>>> "Bob Ingram" <bingram@aub.org> 8/2/2004 1:33:40 PM >>>  
Eric,

Here are my responses to your questions. I hope this is satisfactory.  
Please call me after you look this over.

Thanks,

Bob Ingram

Superintendent

Division of Natural Gas

Athens Utilities Board

423-745-4501

423-829-5204

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\*\*\* IMPORTANT Do not open attachments from unrecognized senders \*\*\*

\*\*\* eSafe scanned this email for malicious content \*\*\*

\*\*\* IMPORTANT Do not open attachments from unrecognized senders \*\*\*



EXHIBIT 11  
(following 5 pages)

RECEIVED 8/16/04

Attached is the failure report

Bob Ingram

Superintendent

Division of Natural Gas

Athens Utilities Board

423-745-4501

423-829-5204

Failure Investigation  
Athens Utilities Board  
16 August 2004

Robert S. Ingram  
Superintendent  
Division of Natural Gas

Pursuant to DOT 192.617

County Road 100, McMinn County

## Incident in General

- 1) 16 July 2004 a failure occurred in a four inch distribution main, operating at 20 psig. The MAOP of the main is 66 psig. The main was medium density polyethylene manufactured by Driscopipe with the specifications of DR 11.5, PE 2406, CEC ASTM D2513, and manufactured 12 July 2000.
- 2) The failure location was McMinn County Road 100 at the intersection of County Road 62.
- 3) The immediate cause of the failure was a horizontal boring machine's auger cutting into the pipe. The boring machine was being operated by C. P. Asberry Construction. C. P. Asberry was working as a sub contractor to Green Brothers Construction. Green Brothers were installing a water distribution main for Riceville Utility District.
- 4) The breach of the pipe caused the release of gas resulting in a fire.
- 5) The resulting fire caused injury to one of the two operators of the boring machine. The operator was air lifted to Erlanger Hospital Burn Unit in Chattanooga. He received second degree burns to his hands, arms and the side of his face. He was kept in the intensive burn care unit until 19 July 2004. He has since been released from the hospital and is undergoing rehabilitation.

## Contributing Factors

- 1) Asberry Construction requested a location via Tennessee One - Call, locate number 041900438, 07 July 2004. The request was for the intersection of County Roads 62 and 100 with additional marking 200 feet N/NW along County Road 100.
- 2) Green Brothers also requested a location via Tennessee One - Call, locate number 041951933, 13 July 2004. The request was for the intersection of County Roads 62 and 100 with additional marking 500 on both sides of the intersection along County Road 100.
- 3) The two locates were handled by different AUB employees. The locate request by Asberry Construction was made by a substitute locator employee as the regular locator employee was on vacation the day the location request came in.
- 4) Green Brothers had been working in the area for some time prior to the incident. AUB's normal locating personnel had worked closely with Green Brothers ensuring the areas they were working in were marked.
- 5) When the locate request by Green Brothers was received the employee believed Green Brothers were working in an area where there were no AUB gas lines.
- 6) The incident occurred 54 feet N/NW along County Road 100.
- 7) The intersection was well marked.
- 8) Location marks were visible for 26 feet along County Road 100.
- 9) No additional location marks were visible.

## Conclusions

- 1) AUB failed on both occasions to correctly follow location request (e g. intersection was marked by not additional footage along County Road 100)
- 2) AUB's failure to completely mark the area as requested resulted in the contractor believing the area was clear of natural gas piping
- 3) The contractor's belief that there was no natural gas piping preventing him from boring at a sufficient depth to miss the distribution main
- 4) Hitting the pipe with the boring auger caused a breach in the side of the pipe resulting in a sudden leak of natural gas
- 5) The combustion source is unknown

## CIVIL PENALTY SCHEDULE

In determining the civil penalty for each violation, the following state and federal statutes were considered, Tennessee Code Annotated, Section 65-28-108

“(a) Any person who violates any provision of §§ 65-28-104 -- 65-28-111, or of any regulation issued under such sections, is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each such violation for each day that such violation persists, except that the maximum civil penalty shall not exceed five hundred thousand dollars (\$500,000) for any continuing series of violations.

(b) Any civil penalty may be compromised by the authority. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, shall be paid within thirty (30) days after the determination to the authority, to be used for the purposes of §§ 65-28-104 -- 65-28-111, and, if not paid within such time, may be recovered in a civil action brought by the authority in the chancery court of any county in which a violation exists [Acts 1970, ch. 558, § 6, T.C.A., § 65-2809; Acts 1991, ch. 439, § 2, 1995, ch. 305, § 36.]”

The Pipeline Safety Act (Public Law 90-481; 49 U.S.C. § 1671 et seq.) addresses the federal statute pertaining to violations of the Minimum Federal Safety Standards, Section 60122 states.

### “(a) GENERAL PENALTIES

(1) A person who the Secretary of Transportation decides, after written notice and an opportunity for a hearing, has violated Section 60114(c) or 60118(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than \$100,000 for each violation. A separate violation occurs for each day the violation continues. The maximum civil penalty under this paragraph for a related series of violations is \$1,000,000.

(2) A person violating a standard or order under Section 60103 or 60111 of this title is liable to the Government for a civil penalty of not more than \$100,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

### (b) PENALTY CONSIDERATIONS.

In determining the amount of a civil penalty under this section, the Secretary shall consider –

- (1) the nature, circumstances, and gravity of the violation, including adverse impact to the environment
- (2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business,
- (3) good faith in attempting to comply,
- (4) the economic benefit gained from the violation without any reduction because of subsequent damages; and
- (5) other matters that justice requires

(c) COLLECTION AND COMPROMISE

- (1) The Secretary may request the Attorney General to bring a civil action in an appropriate district court of the United States to collect a civil penalty imposed under this section
- (2) The Secretary may compromise the amount of a civil penalty imposed under this section before referral to the Attorney General

(d) SETOFF.

The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty

(e) DEPOSIT IN TREASURY

Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) PROHIBITION ON MULTIPLE PENALTIES FOR SAME ACT

Separate penalties for violating a regulation prescribed under this chapter and for violating an order under Section 60112 or 60118(b) of this title may not be imposed under this chapter if both violations are based on the same act ”

In assessing the amount for the violation, we took into consideration the nature of the violation, the notices you have received from the Federal Office of Pipeline Safety and Tennessee Regulatory Authority in an Alert Notice and informational mailings concerning compliance with pipeline safety rules and regulations. An amount of \$10,000 per violation was used in determining the civil penalty in accordance with TCA § 65-28-104. The violation amount was multiplied by the number of days the violation was outstanding times the size of the natural gas distribution system, and divided by the public safety factor. See the formula, public safety factor, length of time violation was outstanding and total amount for each violation listed below. In consideration of our state statute, the total civil penalty assessed is \$15,000



### Formula

$$\text{Civil Penalty Amount} = \frac{\text{Violation} \times \text{Number of days} \times \text{Size of natural gas distribution system}}{\text{Public safety factor number}}$$

### Public Safety Factor

<u>Factor Number</u>	<u>Type of Violation</u>
1.00	Priority 1 - Any violation which, if not immediately corrected, could present a hazardous condition to life, property or both
2.0	Priority 2 - Any violation which needs prompt attention because the failure to correct could result in loss of service and / or reliability to the customer
3.0	Priority 3 - Any violation which needs attention because the operator has failed to complete or schedule maintenance activities

<u>Factor Number</u>	<u>Size of Natural Gas Distribution System</u>
35	1 to 2,000 gas meters
50	2,001 to 10,000 gas meters
65	10,001 to 50,000 gas meters
100	50,000 or more

**Athens Utility Board**  
**Natural Gas Pipeline Incident**  
**July 16, 2004**

<b><u>Violation</u></b>	<b><u>Formula</u></b>	<b><u>Maximum Civil Penalty</u></b>
192 614 (c)5	$\frac{\$10,000 \times 3 \times 0.50}{1} \quad \frac{15,000}{1}$	= \$15,000

Potential Maximum Civil Penalty = **\$15,000**

Note: The three (3) days used to assess these penalties was derived from the days the Tennessee One-Call ticket was in effect for the facilities to be located, July 13, 2004 to the day the incident occurred, July 16, 2004.

**Potential Federal Civil Penalty**

<b><u>Violation</u></b>	<b><u>Formula</u></b>	<b><u>Maximum Civil Penalty</u></b>
192.614 (c)5	$\frac{\$100,000 \times 3 \times 0.50}{1} \quad \frac{150,000}{1}$	=\$150,000

Potential Maximum Federal Civil Penalty = **\$150,000**